

1 A. Well, I think if I understand your  
2 question, the reason that they're looking at a  
3 right-turn-only driveway here is not -- is not  
4 necessarily to avoid the expense of a traffic  
5 signal.  
6 It's because when they put in dual  
7 left-turn lanes on each of these approaches to  
8 the Route 38/New Kirk Road intersection, the dual  
9 left-turn dimensions are typically 300 feet for  
10 the left-turn storage itself and 300 feet for the  
11 taper.

12 Since this intersection from the center  
13 line to center line is only roughly 600 feet  
14 total, Old Kirk Road falls within the limits of  
15 the deceleration taper and the left-turn storage  
16 for this new widened approach to Kirk Road to New  
17 Kirk Road.

18 It is not good engineering practice to  
19 have a full access, whether signalized or not,  
20 that falls within the limits of a left-turn lane  
21 on an approach to an intersection.

22 Q. Well, this particular intersection would

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1 directly.

2 There are phase one studies which do not  
3 get funded.

4 Q. Do you know what percentage don't get  
5 funded?

6 A. I would -- I could take a guess and I  
7 would say --

8 Q. Based on your experience.

9 A. Based on my experience, in a normal  
10 funding environment, maybe 10 percent.

11 In a tight funding environment, maybe  
12 that figure could increase to 30 or 40 percent  
13 depending on the source of funds.

14 Q. Do you know what the hierarchy of this  
15 particular crossing is on IDOT's hierarchy of  
16 projects that will get done?

17 A. I have been told by Kane County that at  
18 the present time it is funded.

19 I don't know if it's fully funded, I  
20 don't know if the funding is in jeopardy because  
21 of the state's budget shortfalls and woes at this  
22 point in time.

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not be a full intersection, correct?

There's no road to the north, is there?

A. By full, we mean even a T-intersection  
could be full in the sense that it has all  
movements permitted.

Q. Well, in your capacity as a superintendent  
of highways for DuPage County's Division of  
Transportation, would it be a recommendation of a  
county road authority to have the residential  
area around Old Kirk Road used for through  
traffic?

A. Would you intentionally route through  
traffic through a residential area?

Q. Yes, sir.

A. That's something that you would like to  
avoid on a day-in and day-out basis.

Q. There's an indication that there was a  
phase one design for this particular intersection  
in this area.

Are there many phase one designs that  
don't get constructed?

A. I don't know if I can answer that question

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1 Q. Okay. When you perform the adverse impact  
2 studies, you indicated you did it relative to  
3 miles and you did not do it specifically with  
4 regard to time, correct?

5 A. That's correct.

6 The reason is because the ICC criteria  
7 is based on distance and not time.

8 Q. But the whole concept is not only would  
9 you travel further, it would take you longer to  
10 get from Point A to Point B, correct?

11 A. That's correct.

12 Q. And there's also potential, is there not,  
13 that if this intersection has a train in it, that  
14 that may delay you?

15 A. That's a possibility, but I did review the  
16 Union Pacific's volume and gate downtime survey  
17 from 1999 and the crossing is actually closed  
18 only roughly 11 percent of the time.

19 So anybody leaving from a business on  
20 Old Reed Road who is right there near the  
21 crossing and can see activity at the crossing and  
22 specifically can see if the gate is down or

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1 BEFORE THE  
2 ILLINOIS COMMERCE COMMISSION  
3 IN THE MATTER OF: )  
4 UNION PACIFIC RAILROAD COMPANY )  
5 Petitioner )  
6 vs. ) T01-0040  
7 TOWNSHIP OF GENEVA, ILLINOIS, and )  
8 ILLINOIS DEPARTMENT OF )  
9 TRANSPORTATION, )  
10 Respondents. )  
11 Petition for an order of the )  
12 Illinois Commerce Commission for )  
13 closure of Old Kirk Road, public )  
14 grade crossing DOT #714986H at )  
15 Milepost 33.75 on the Geneva )  
16 Subdivision, City of Geneva, )  
17 Geneva Township, Kane County, )  
18 Illinois. )  
19 Chicago, Illinois  
20 May 14, 2003  
21 Met, pursuant to notice.  
22 BEFORE:  
Ms. June Tate, Administrative Law Judge.

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1 I N D E X  
2  
3 Witnesses: Direct Cross Re- Re- By  
4 JOHN M. CARLSON 169 173, direct cross Examiner.  
5 179, 183  
6 187  
7 BRIAN DePAUL 189 199  
8 BRENT COULTER 210 248  
9 275 279  
10  
11  
12 E X H I B I T S  
13 Respondent's For Identification In  
14 Evidence  
15 Exhibit No. 15 was marked.....  
16 171  
17 Exhibit No. 16 was marked.....  
18 224  
19 Exhibits 1 through 16 were admitted.....  
20 284  
21  
22

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1 APPEARANCES:  
2 MR. MACK H. SHUMATE, JR.  
3 101 North Wacker Drive, Room 1920  
4 Chicago, IL 60606  
5 for the petitioner;  
6 MS. MARY E. DICKSON  
7 203 East Liberty Drive  
8 Wheaton, IL 60187  
9 for the respondent.  
10 MR. ROBERT BERRY (telephonically)  
11 527 East Capitol Avenue  
12 Springfield, Illinois, 62701  
13 for staff;  
14 MR. JEFF HARPRING (telephonically)  
15 2300 South Dirksen Parkway  
16 Springfield, Illinois  
17 for the Illinois Department  
18 of Transportation.  
19 SULLIVAN REPORTING COMPANY, by  
20 MICHAEL R. URBANSKI, C.S.R.,  
21 License No. 084-003270  
22

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1 JUDGE TATE: In accordance with the rules and  
2 regulations of the Illinois Commerce Commission,  
3 I now call Docket T01-0040, Union Pacific  
4 Railroad Company versus Township of Geneva,  
5 Illinois, and Illinois Department of  
6 Transportation, petition for an order of the  
7 Illinois Commerce Commission for the closure of  
8 Old Kirk Road, public crossing D.O.T. No. 174986H  
9 at Milepost 33.75 on the Geneva Subdivision, City  
10 of Geneva, Geneva Township, Kane County,  
11 Illinois.  
12 Your appearances, please.  
13 MS. DICKSON: Mary Dickson, D-i-c-k-s-o-n, on  
14 behalf of Geneva Township Highway Commissioner,  
15 John Carlson.  
16 MR. SHUMATE: Mack Shumate, I'm an attorney to  
17 the Union Pacific Railroad Company.  
18 JUDGE TATE: Mr. Berry.  
19 MR. BERRY: Bob Berry representing the staff  
20 of the transportation division, railroad section  
21 of the Commission. Business address 527 East  
22 Capitol Avenue, Springfield, Illinois, 62701.

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1 I also have Mr. Harpring here with the  
 2 Illinois Department of Transportation.  
 3 JUDGE TATE: Is he entering an appearance?  
 4 MR. BERRY: Yes.  
 5 MR. HARPRING: Jeff Harpring representing the  
 6 Illinois Department of Transportation, 2300 South  
 7 Dirksen Parkway, Springfield, Illinois.  
 8 JUDGE TATE: Let the record show there were no  
 9 other appearances.  
 10 We have one prospective witness who has  
 11 not been sworn.  
 12 MS. DICKSON: Mr. DePaul.  
 13 JUDGE TATE: Will you stand to be sworn,  
 14 please.  
 15 (Witness sworn.)  
 16 JUDGE TATE: Thank you.  
 17 At the last hearing on April 30th,  
 18 Mr. Shumate was in the process of cross-examining  
 19 John M. Carlson, the Geneva Township highway  
 20 commissioner.  
 21 At this point, Ms. Dickson representing  
 22 the Geneva Township highway commissioner wishes

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1 area.  
 2 Q. And what is the purpose of this petition  
 3 to your knowledge?  
 4 MR. BERRY: You're going to have to sit closer  
 5 to the microphone, please.  
 6 JUDGE TATE: Move it down farther that way.  
 7 THE WITNESS: I'll repeat that.  
 8 This was a circulation -- or this was a  
 9 petition circulated by Mark Wissing passed on to  
 10 me.  
 11 The purpose of the petition, the  
 12 undersigned oppose the closing by the Union  
 13 Pacific Railroad of the public crossing on Old  
 14 Kirk Road.  
 15 BY MS. DICKSON:  
 16 Q. And did Mr. Wissing give this petition to  
 17 you for your files as for maintenance in your  
 18 files as the Geneva Township highway  
 19 commissioner?  
 20 A. Yes.  
 21 JUDGE TATE: Is this the document we're  
 22 dealing with?

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1 to recall Mr. Carlson to lay the foundation for  
 2 one of the exhibits.  
 3 The other witnesses understand, please,  
 4 that you were previously sworn and are still  
 5 under oath. Thank you.  
 6 Ms. Dickson.  
 7 MS. DICKSON: Thank you, your Honor.  
 8 JOHN M. CARLSON,  
 9 having been called as a witness herein, after  
 10 having been first duly sworn, was examined and  
 11 testified as follows:  
 12 FURTHER DIRECT EXAMINATION  
 13 BY  
 14 MS. DICKSON:  
 15 Q. Mr. Carlson, I'm handing you what has been  
 16 previously designated, I believe, as Exhibit No.  
 17 13.  
 18 Would you take a moment and identify  
 19 that document?  
 20 A. This is a petition circulated by Mark  
 21 Wissing of the residents and some of the business  
 22 people and employees in the Kirk, Old Kirk Road

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1 MS. DICKSON: I'm sorry, it's Exhibit 14. I  
 2 apologize.  
 3 JUDGE TATE: Thank you.  
 4 MR. BERRY: 14 or 13?  
 5 MS. DICKSON: 14.  
 6 JUDGE TATE: 14.  
 7 MS. DICKSON: Judge Tate, I just received this  
 8 one and it has not been previously marked by you  
 9 as an exhibit.  
 10 JUDGE TATE: Okay. That will be 15.  
 11 (Whereupon, Township  
 12 Exhibit No. 15 was marked  
 13 for identification.)  
 14 JUDGE TATE: This is another petition.  
 15 MS. DICKSON: This is a resolution of the Kane  
 16 County division of transportation.  
 17 It's a resolution of the Kane County  
 18 Board supporting the continuation of the grade  
 19 crossing at Old Kirk Road.  
 20 JUDGE TATE: Continue.  
 21 BY MS. DICKSON:  
 22 Q. Mr. Carlson, I'm showing you what has been

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1 just marked as Exhibit No. 15.  
 2 When did you receive this resolution?  
 3 A. I received it this morning at  
 4 approximately 11:00 o'clock.  
 5 Q. And is this a resolution of the Kane  
 6 County Board?  
 7 A. Yes.  
 8 Q. And in this resolution, what does the Kane  
 9 County Board resolve?  
 10 A. Now therefore it be resolved that the Kane  
 11 County Board opposes the closing of the  
 12 crossing -- the grade crossing at Old Kirk Road  
 13 by the Union Pacific Railroad in the name of the  
 14 residents of northern Illinois that use the road  
 15 to access Kane County Event Center or as an  
 16 alternate route to Kirk Road until an alternative  
 17 access and circulation plan can be developed in  
 18 coordination with the major intersection  
 19 improvement at Kirk Road and Illinois Route 38.  
 20 MS. DICKSON: Thank you.  
 21 I have no further questions of  
 22 Mr. Carlson.

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1 Mark Wissing.  
 2 I don't know if he was aware of Illinois  
 3 Code 10.  
 4 Q. And this petition is a petition signed by  
 5 residents in the area or people that work in the  
 6 area?  
 7 A. Yes, it is.  
 8 Q. Is it both?  
 9 A. Yes. Yes. I can see on Page 3 that these  
 10 are people that work at one of the businesses.  
 11 Q. Do you know if any of your constituents  
 12 that live in the area have signed that?  
 13 A. Yes. I can see a number of names that I  
 14 recognize.  
 15 Q. Okay. Now, you've just introduced another  
 16 document here which is a resolution of the Old  
 17 Kirk Road in Geneva by the -- by Kane County; is  
 18 that correct?  
 19 A. Kane County Board, yes.  
 20 Q. And how was this obtained by your office?  
 21 A. I went to the county clerk's office and  
 22 picked up a copy of -- the certified copy of the

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1 However, if it's appropriate at this  
 2 time, I would ask to move exhibits 1 through 15  
 3 into evidence.  
 4 JUDGE TATE: I'll reserve ruling.  
 5 MR. SHUMATE: Was there -- I'm sorry.  
 6 JUDGE TATE: Go on.  
 7 MR. SHUMATE: So we'll now be able to continue  
 8 with the cross-examination?  
 9 JUDGE TATE: That's correct.  
 10 MR. SHUMATE: Okay.  
 11 FURTHER CROSS-EXAMINATION  
 12 BY  
 13 MR. SHUMATE:  
 14 Q. Mr. Carlson, I like to direct your  
 15 attention to what's been marked as Respondent's  
 16 Exhibit 14. I believe it's the petition.  
 17 Is that correct?  
 18 A. Yes.  
 19 Q. Are you aware of whether or not that  
 20 particular petition was prepared in accordance  
 21 with requirements of 10 Illinois Code 528-3?  
 22 A. I believe it was a petition prepared by

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1 resolution this morning. The meeting was last  
 2 evening.  
 3 Q. I see.  
 4 And did you testify at the hearing that  
 5 was held before this resolution was passed?  
 6 A. No, I did not.  
 7 Q. Did anybody on your staff --  
 8 A. No.  
 9 Q. -- testify?  
 10 Okay. We'll go back to the line of  
 11 questioning that we had, and I don't have much  
 12 more at all.  
 13 A. Okay.  
 14 Q. When we were at the previous hearing.  
 15 Was there a plan that was given to the  
 16 Geneva Township with regard to a modification of  
 17 the intersection of Old Kirk Road and Roosevelt  
 18 Road or Route 38?  
 19 A. Being in phase one engineering, I've not  
 20 seen anything other than -- at this point other  
 21 than they're talking, I guess I'd use the word in  
 22 generals that they want to improve sightlines,

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1 increase lanes and, you know, possibly do some  
2 modifications to how Old Kirk Road meets in with  
3 the improved or the proposed improvements to the  
4 Route 38.

5 Q. And just to make it clear, the Illinois  
6 Department of Transportation is the roadway  
7 authority that is charged with the responsibility  
8 of Route 38 or Roosevelt Road; is that correct?

9 A. That is true.

10 Q. And so you would expect that that  
11 particular governmental entity would be the one  
12 that would, as you called it, phase one designing  
13 or any modifications to that intersection?

14 A. I believe from my recollection that in the  
15 phase one engineering, the IDOT was going to get  
16 their phase one engineering or -- from the Kane  
17 County Department of Transportation.

18 And I would -- and then go through the  
19 steps they go through at that point of approval.

20 Q. Okay. Now, Old Kirk Road, that's a  
21 township road, correct?

22 A. Yes.

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1 A. None as of this date.

2 Q. Okay. So if I understand you correctly,  
3 relating to the three governmental entities, that  
4 would be the Township of Geneva, the County of  
5 Kane, and the Illinois Department of  
6 Transportation, to your knowledge there are no  
7 formal engineering plans with regard to  
8 reconfiguring the intersection of Old Kirk Road  
9 and Route 38?

10 MS. DICKSON: Objection, asked and answered:

11 JUDGE TATE: Sustained.

12 MR. SHUMATE: Okay.

13 BY MR. SHUMATE:

14 Q. Now, one more question, I think, and --  
15 earlier you had testified as the supervisor of  
16 the township from a standpoint of  
17 transportation -- what is your title again?

18 A. Highway commissioner.

19 Q. Highway commissioner.

20 With regard to your opinions concerning  
21 certain safety issues, concerning traffic issues,  
22 is that correct, on your direct testimony?

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1 Q. And so it's Geneva Township that has the  
2 jurisdiction of that road?

3 A. Yes.

4 Q. Has Geneva Township either prepared  
5 through its own engineering staff or hired an  
6 engineer to reconfigure the intersection of Old  
7 Kirk Road and Roosevelt Road or Route 38?

8 A. I use the man behind me, Mr. Coulter, for  
9 advice as it relates to design and engineering  
10 specifics on various roads.

11 Q. Has a formal plan or engineering plan for  
12 reconfiguring the intersection been undertaken by  
13 Geneva Township?

14 A. Not as of this point.

15 Q. Has Kane County through its department of  
16 transportation, to your knowledge, undertaken an  
17 engineering analysis for the intersection of Old  
18 Kirk Road and Route 38?

19 A. I believe they're in the process of doing  
20 it, but not finished.

21 Q. Have you received any preliminary plans or  
22 your office received any preliminary plans?

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1 A. Yes.

2 Q. And you're not an expert in that area, are  
3 you?

4 A. No.

5 MR. SHUMATE: No further questions, your  
6 Honor.

7 JUDGE TATE: Any redirect?

8 I'm sorry, Mr. Berry.

9 MR. BERRY: Yes, I have some questions.

10 CROSS-EXAMINATION

11 BY

12 MR. BERRY:

13 Q. In the packet that was sent to me, I don't  
14 think it was -- let me check -- it was labeled,  
15 but it might be Exhibit No. 9, the petition to  
16 oppose the closing of Old Kirk Road submitted by  
17 Welding Material Sales, Inc.

18 MR. SHUMATE: I believe that's Exhibit 11.

19 MR. BERRY: That's 11.

20 JUDGE TATE: Yes, that's 11.

21 MR. BERRY: Okay. I have some questions about  
22 it.

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1 THE WITNESS: Okay.  
 2 BY MR. BERRY:  
 3 Q. I notice that going down the addresses,  
 4 besides Geneva, there's people that signed it  
 5 from Batavia, Naperville, Sycamore, Aurora, West  
 6 Chicago, Aurora; Montgomery, Illinois,  
 7 St. Charles, another West Chicago, another  
 8 Chicago, besides people that live in Geneva.  
 9 My question is, in terms of access to  
 10 the businesses if the Old Kirk Road at-grade  
 11 crossing is closed, the further away a person is  
 12 from the crossing, the more chance he's going to  
 13 have to gain access to the crossing without much  
 14 trouble.  
 15 Will you agree?  
 16 MS. DICKSON: Do you understand the question,  
 17 Mr. Carlson?  
 18 THE WITNESS: Yes.  
 19 I guess I would say in my opinion  
 20 , Mr. Berry, are you -- could I ask you a  
 21 question?  
 22 JUDGE TATE: No.

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1 Do you agree with that?  
 2 A. No, I don't, and they have 50 percent less  
 3 opportunities to get into their property by  
 4 virtue of the fact they must enter off of  
 5 Route 38 only as opposed to being able to enter  
 6 on Cherry or the Old Kirk that's south of Cherry.  
 7 Q. Are you aware of other businesses in  
 8 Geneva or the surrounding area in your township  
 9 that only have one entrance?  
 10 A. Are we talking -- could you clarify that,  
 11 if it's off a state road or --  
 12 Q. Any scenario of a township road off a  
 13 state road?  
 14 MS. DICKSON: Objection, relevance, your  
 15 Honor.  
 16 JUDGE TATE: Can you clarify your --  
 17 MR. BERRY: He's testified that, you know, to  
 18 the difficulty some people are going to have  
 19 gaining access to the site because there's only  
 20 one entrance.  
 21 Well, I want to know if there's other  
 22 places in the township, other businesses that

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1 THE WITNESS: Okay. If the closing -- I would  
 2 say no, I don't agree.  
 3 BY MR. BERRY:  
 4 Q. Why?  
 5 A. Because if the crossing were closed and on  
 6 an entry-only basis, there would -- there would  
 7 still be directions that employees would be  
 8 coming from that could be difficult to get into  
 9 Old Kirk Road.  
 10 Q. But the entry-only scenario is still not  
 11 carved in stone, is it?  
 12 A. No. At this point it is not. At this  
 13 point, we don't know what the entry is.  
 14 Q. What I was getting at, the further away a  
 15 person lives, the more chance they have to take  
 16 alternate routes that cut down on the adverse  
 17 travel and the difficulty to get to the site.  
 18 Now I understand that a person that  
 19 lives in, say, in Geneva or lives very close to  
 20 the site would have difficulty, but a person far  
 21 away would have less difficulty because he has  
 22 more opportunity to take alternate routes.

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1 have the same scenario, only one entrance.  
 2 MS. DICKSON: I renew my objection, your  
 3 Honor.  
 4 JUDGE TATE: Sustained.  
 5 MR. BERRY: I'm sorry, are you waiting for me?  
 6 THE WITNESS: Yes.  
 7 JUDGE TATE: Yes, we are.  
 8 MR. BERRY: I didn't hear what the ruling was.  
 9 JUDGE TATE: I'm sorry. The objection was  
 10 sustained.  
 11 MR. BERRY: Okay.  
 12 Those are all the questions I have.  
 13 JUDGE TATE: Mr. Harpring.  
 14 MR. HARPRING: No questions.  
 15 EXAMINATION  
 16 BY  
 17 JUDGE TATE:  
 18 Q. Mr. Carlson, referring to the map which is  
 19 Page 2 of Exhibit 11.  
 20 A. Yes.  
 21 Q. All right. That shows the location of  
 22 Williams. By what means are -- what are the

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1 various routes that people can take to reach --  
 2 not Williams -- Welding Material Sales?  
 3 A. Today, if they are approaching from the  
 4 south, they can get on Southwest Lane, which I  
 5 think is actually Old Kirk Road, or they can make  
 6 an eastbound turn on Cherry Lane, then proceed  
 7 north up Old Kirk Road to Reed Road.

8 Q. How do they get from Cherry Lane to Old  
 9 Kirk Road?

10 A. Old Kirk Road runs parallel to Kirk Road  
 11 and so they would make an eastbound -- a  
 12 right-hand turn on Cherry and then a left-hand  
 13 turn onto Old Kirk, cross the tracks, and then  
 14 make a left-hand turn onto Reed Road.

15 Q. Okay.

16 A. If they're coming from the north, they  
 17 have a choice of turning across State Street at  
 18 the light -- I'm sorry, across 38, Illinois Route  
 19 38, and then making a right-hand turn onto Old  
 20 Kirk Road.

21 They also may elect to go -- proceed  
 22 further south to Cherry Lane and go there.

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1 So you've -- at that point you, you  
 2 know, coming from the east would either -- would  
 3 have a choice of turning at Old Kirk Road or  
 4 going to the light at Kirk Road and then  
 5 proceeding south to Cherry Lane, making a  
 6 left-hand turn at the light, making a left-hand  
 7 turn at Cherry and making a left-hand turn onto  
 8 Reed Road.

9 And again, you know, coming from the  
 10 west on Route 38, more than likely most people  
 11 would go through the intersection at Kirk Road  
 12 and 38 and make a right-hand turn onto Old Kirk  
 13 Road, though they would have the option of  
 14 turning on Kirk Road and proceeding down to  
 15 Cherry Lane.

16 Q. Reed Road doesn't go to State Street or  
 17 38?

18 A. No, it does not. It dead-ends, I believe,  
 19 at a property line where that shaded area is.

20 JUDGE TATE: All right. Redirect?

21 MS. DICKSON: I have no redirect, your Honor.

22 JUDGE TATE: Your next witness.

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1 Coming in from the east, the employee or  
 2 whatever, the person wanting to get to that area  
 3 would turn across -- would have the option of  
 4 making a left-hand turn across two oncoming lanes  
 5 of traffic onto Old Kirk Road or they could go up  
 6 to the signalized intersection at Kirk Road and  
 7 State, make a left turn, proceed down to Cherry  
 8 and make a left turn there.

9 Again, coming from the west on  
 10 Route 38 --

11 Q. Wait a minute.

12 This Welding, you went past the place  
 13 where Welding is to go to Cherry?

14 A. Yes.

15 What is unclear on this particular map  
 16 is that Reed Road is under Kirk Road. Okay.

17 What's not clearly indicated is you are  
 18 on the bridge of Kirk Road, okay, and Kirk Road  
 19 bridges Reed Road, so you may not access Reed  
 20 Road from --

21 Q. Kirk Road?

22 A. -- Kirk Road.

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1 MS. DICKSON: At this --

2 MR. SHUMATE: May I ask one question that was  
 3 brought up by your Honor's questioning?

4 JUDGE TATE: Yes.

5 FURTHER CROSS-EXAMINATION

6 BY

7 MR. SHUMATE:

8 Q. Mr. Carlson, directing your attention  
 9 again to this Exhibit 11, that would be  
 10 Respondent's Exhibit 11, on the far south you  
 11 referenced I think -- is it Southwest Lane; is  
 12 that correct?

13 A. Yes.

14 Q. And so that -- and then just to the north  
 15 of that there's Cherry Lane, right?

16 A. Yes.

17 Q. And both of those have access to Old Kirk  
 18 Road, right?

19 A. Yes.

20 Q. And so the businesses or individuals could  
 21 use either of those two routes to get to what's  
 22 been termed Reed Road or to the businesses that

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1 are in and around Welding Material Sales; is that  
 2 correct?  
 3 A. Yes.  
 4 Q. And then to the north you can access Reed  
 5 Road and those businesses, if you come either  
 6 east or west off of Route 38 and then go south?  
 7 A. Yes.  
 8 Q. Okay. Now, if you take either South  
 9 Western Lane or Cherry Lane, do you have to cross  
 10 the railroad tracks?  
 11 A. Yes, you do.  
 12 Q. If you take Route 38, do you have to cross  
 13 the railroad tracks?  
 14 A. No, you don't.  
 15 Q. And if you take Kirk Road in lieu of Old  
 16 Kirk Road to get to Route 38, do you have to  
 17 cross the railroad tracks at grade?  
 18 A. No.  
 19 Q. There's a bridge over the tracks; is that  
 20 correct?  
 21 A. Yes, there is.  
 22 MR. SHUMATE: No further questions, your

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1 name for the record, Mr. DePaul.  
 2 A. B-r-i-a-n, D-e-P-a-u-l.  
 3 JUDGE TATE: Thank you.  
 4 BY MS. DICKSON:  
 5 Q. What is your position with Welding  
 6 Material Sales?  
 7 A. Vice president.  
 8 Q. How long have you been vice president of  
 9 Welding Material Sales?  
 10 A. Nine years.  
 11 Q. How long has -- and Welding Material Sales  
 12 is located on Reed Road?  
 13 A. Yes.  
 14 Q. How long has it been located at that  
 15 location?  
 16 A. Oh, approximately 15, 17 years.  
 17 Q. What's the nature of the business of  
 18 Welding Material Sales?  
 19 A. We do retail packaging of welding  
 20 consumables for the retail industry.  
 21 Q. How many employees do you have?  
 22 A. At any point in time between 35 and 45.

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1 Honor.  
 2 JUDGE TATE: Do you have another witness,  
 3 Ms. Dickson?  
 4 MS. DICKSON: Yes, I do, your Honor.  
 5 I'd like to call Mr. Brian DePaul.  
 6 BRIAN DePAUL,  
 7 having been called as a witness herein, after  
 8 having been first duly sworn, was examined and  
 9 testified as follows:  
 10 DIRECT EXAMINATION  
 11 BY  
 12 MS. DICKSON:  
 13 Q. Mr. DePaul, are you affiliated with  
 14 Welding Material Sales?  
 15 A. Yes.  
 16 Q. And what is your position with Welding  
 17 Material Sales?  
 18 JUDGE TATE: First of all, may we have a  
 19 spelling of the first name.  
 20 MS. DICKSON: Yes, your Honor.  
 21 BY MS. DICKSON:  
 22 Q. Could you please spell your first and last

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1 Q. Do you have vendors who come to Welding  
 2 Material Sales?  
 3 A. Yes.  
 4 Q. On average on a daily basis, how many  
 5 vendors would come to your location?  
 6 A. Including truck lines which I would  
 7 consider a vendor, on average eight to ten a day.  
 8 Q. Can customers also come to your location?  
 9 A. Yes.  
 10 Q. On average on a daily basis, how many  
 11 customers visit your business?  
 12 A. One.  
 13 Q. Is it a major customer?  
 14 A. Sometimes.  
 15 Q. But is it a different customer every day?  
 16 A. Yeah.  
 17 Q. Looking at Exhibit No. 11, is this -- can  
 18 you identify this exhibit?  
 19 A. Yeah, that was a petition we did within  
 20 the company that all the employees supported.  
 21 These are all the employees that work  
 22 for me that have to, you know, come via that map

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1 to the location every day on an at least  
 2 Monday-through-Friday basis.  
 3 Q. Did you give these employees any  
 4 inducement to sign this petition?  
 5 A. No.  
 6 Q. How did the employees come to affix their  
 7 names to this petition?  
 8 A. We passed out the petition and they each  
 9 were given the option to sign it.  
 10 Q. So where it says that the employee might  
 11 live, their address, it's Geneva or Batavia or  
 12 Sycamore, that's their current residences?  
 13 A. Correct.  
 14 Q. At least as of the date of the signing of  
 15 the petition?  
 16 A. Correct.  
 17 Q. In taking -- accepting signatures on this  
 18 petition, did you have the opportunity to glean  
 19 from your employees their feeling as to the  
 20 closing of the Old Kirk Road crossing?  
 21 A. Yeah. They were all opposed to it.  
 22 Q. Were you informed as to the reasons for

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1 Mr. Berry -- Mr. Berry's information.  
 2 What is your route then to work,  
 3 Mr. DePaul?  
 4 A. To work? Just what's on the map here?  
 5 Q. Yes.  
 6 A. I go north on Kirk Road and take a right  
 7 eastbound on what says on the map here Southwest  
 8 Lane which is really Old Kirk Road, and follow  
 9 that around and end up going north on Old Kirk  
 10 over the tracks and left on Reed Road.  
 11 Q. What is your exit from work every night?  
 12 A. Relatively close to the same.  
 13 Reed Road east to Old Kirk and go south  
 14 over the tracks, then I normally take a right on  
 15 Cherry because at the intersection of Cherry and  
 16 Kirk Road there is a light, and if I need to go  
 17 left or southbound on Kirk, the light obviously  
 18 helps.  
 19 Q. If the Old Kirk Road crossing is closed,  
 20 what would be the -- what would be the fastest  
 21 route for you to take home?  
 22 A. To take Reed to Old Kirk and go north and

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1 their opposition?  
 2 A. Yeah.  
 3 Most importantly the exit at the end of  
 4 the day, leaving the property without that  
 5 crossing would be -- would force the employees --  
 6 at least the ones who live west and south of the  
 7 area, they would have to go north on Old Kirk and  
 8 take a left going westbound on Route 38 where  
 9 there is no signal and you have to cross an  
 10 extremely busy intersection.  
 11 Q. To your knowledge do any of your employees  
 12 currently take that route heading on Old Kirk  
 13 Road going north and attempting to exit on  
 14 Route 38?  
 15 A. Only when there's a train blocking the  
 16 crossing and they're forced that way and don't  
 17 want to wait for it.  
 18 Q. Have you -- where do you live?  
 19 A. I live southwest of that on Randall Road.  
 20 Off of Randall Road in Batavia.  
 21 Q. What is your route then, if you want to  
 22 refer to the map, that appears on Page 2 or

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1 then go west or turn left on Roosevelt.  
 2 Q. If that -- if through the work on Route 38  
 3 IDOT determined that there shall be no left-hand  
 4 turn or no west-directed turn onto Route 38 at  
 5 Old Kirk Road, what would then be your route  
 6 home, the fastest route home?  
 7 MR. SHUMATE: You know, I'm going to object to  
 8 the question.  
 9 And the reason for it is is that there's  
 10 been no foundation laid that there's any plans or  
 11 any engineering plans that would indicate that  
 12 there would ever be a no left-hand turn allowed  
 13 from Old Kirk Road on to Route 38.  
 14 JUDGE TATE: Do you have a response?  
 15 MS. DICKSON: Yes, your Honor.  
 16 There has been testimony that among the  
 17 phase one engineering plans, one of the concepts  
 18 or alternatives is to limit ingress or egress on  
 19 to Old Kirk Road from Route 38, either egress  
 20 heading west and ingress heading east.  
 21 I think that there was testimony that  
 22 that is one of the alternatives and I think it

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1 bears consideration in this proceeding because if  
 2 IDOT does use that as one of the alternates this  
 3 will severely impact those businesses.  
 4 JUDGE TATE: Now, wait a minute. 38 is under  
 5 IDOT's jurisdiction?  
 6 MS. DICKSON: Correct.  
 7 JUDGE TATE: And you said east or west from  
 8 Old Kirk Road.  
 9 I thought the question was turning off  
 10 of 38, not turning on to it.  
 11 MS. DICKSON: I'm sorry, your Honor, if that  
 12 is what I asked.  
 13 I asked how he would -- if IDOT  
 14 restricts a west turn exit from Old Kirk Road --  
 15 JUDGE TATE: Yes.  
 16 MS. DICKSON: -- how would be the route --  
 17 what would be the fastest route he would take  
 18 home?  
 19 MR. SHUMATE: Renew the objection, your Honor.  
 20 It's speculation.  
 21 There's no evidence on the record other  
 22 than testimony that there are no design plans

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1 Q. Mr. DePaul, then the question was, if you  
 2 are limited -- if IDOT's plan was to restrict a  
 3 west turn or westernbound exit on to Route 38 at  
 4 Old Kirk Road, looking at this map, what would be  
 5 your fastest alternate route?  
 6 A. With the crossing closed, correct?  
 7 Q. Correct.  
 8 A. Well, for me personally I'd have to go  
 9 eastbound on 38 about, I'd say, two, two miles to  
 10 Fabyan Parkway which then comes back around south  
 11 and ends up south on Kirk Road way down here.  
 12 Q. Approximately -- approximately how long  
 13 would your -- in mileage would that increase your  
 14 travel?  
 15 A. I'd say four or five miles.  
 16 Q. Did your employees also voice any  
 17 objection to taking a longer route if the  
 18 crossing was closed?  
 19 A. Yes, because coincidentally most of them  
 20 do live south of our location so they'd have to  
 21 do what I just explained.  
 22 MS. DICKSON: No further questions.

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1 that have actually been put into the record. I  
 2 asked for those, if there were any, by either  
 3 Kane County, Geneva Township, or the Illinois  
 4 Department of Transportation.  
 5 JUDGE TATE: I still have a question because  
 6 Old Kirk Road isn't IDOT's road. So how could  
 7 IDOT restrict the direction in which you turn  
 8 there?  
 9 MS. DICKSON: Your Honor, the testimony from  
 10 Mr. Carlson was that with the reconstruction of  
 11 Route 38, the potential -- one of the plans may  
 12 be to make that a limited access highway at the  
 13 area of Old Kirk Road.  
 14 JUDGE TATE: 38?  
 15 MS. DICKSON: Right. Which would prohibit a  
 16 traveler exiting Old Kirk Road heading west and  
 17 would prohibit a traveler heading east from  
 18 entering Old Kirk Road.  
 19 JUDGE TATE: Objection overruled.  
 20 Continue.  
 21 MS. DICKSON: Thank you, your Honor.  
 22 BY MS. DICKSON:

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1 JUDGE TATE: Mr. Shumate.  
 2 MR. SHUMATE: Thank you, your Honor.  
 3 CROSS-EXAMINATION  
 4 BY  
 5 MR. SHUMATE:  
 6 Q. Approximately how many employees do you  
 7 have, Mr. DePaul?  
 8 A. Between 35 and 45 depending on the time of  
 9 the year.  
 10 Q. And how many shifts do you run at your  
 11 facility?  
 12 A. Just one.  
 13 Q. And what time do those individuals get out  
 14 of work?  
 15 A. There's 7:00 to 3:30 for the factory  
 16 personnel and 8:00 to 4:30 for office.  
 17 Q. Okay. So they would be using the  
 18 intersection of the railroad tracks and Old Kirk  
 19 Road a little after 3:30.  
 20 As a general matter do they leave all at  
 21 the same time?  
 22 A. A lot of them. The ones that get out at

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1 4:30.  
 2 Q. Would leave at 4:30?  
 3 A. So really between 3:30 and 5:00.  
 4 Q. Okay. Do trucks use -- does your business  
 5 use any type of trucks?  
 6 A. Yes.  
 7 Q. What type of trucks?  
 8 A. Everything from UPS, FedEx-type parcel  
 9 carriers up to full length semi tractor-trailers.  
 10 Q. And your company is Welding Material  
 11 Sales. What products does that mean? Is it a  
 12 welding shop or --  
 13 A. No, we actually sell welding filling  
 14 metals.  
 15 Q. On the trucks that either go into your  
 16 facility or leave your facility, do any of them  
 17 carry compressed gas or acetylene or anything of  
 18 that nature?  
 19 A. Some of our customers that are in the gas  
 20 business send their own trucks in that do have  
 21 gas on them.  
 22 Q. So these would be like a welding company

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1 placing a traffic light at Old Kirk and Route 38.  
 2 So I would object on that basis.  
 3 MR. SHUMATE: We have had testimony with  
 4 regard to the concept of a traffic light from Mr.  
 5 Carlson.  
 6 MS. DICKSON: Based on questions that you  
 7 asked Mr. Carlson, but there has been no  
 8 testimony that IDOT is considering a traffic  
 9 light at that intersection.  
 10 MR. SHUMATE: Well, whether IDOT is  
 11 considering or not is not what I asked him. I  
 12 just asked him whether or not --  
 13 JUDGE TATE: What was your question?  
 14 MR. SHUMATE: My question is if there was a  
 15 traffic light at Route 38, would that ease your  
 16 employees or your, as the boss of your employees,  
 17 concern about their -- what you stated, their  
 18 safety and their convenience?  
 19 JUDGE TATE: Well, I don't remember anything  
 20 about a traffic light being planned for there.  
 21 MR. SHUMATE: No, we didn't say there was one  
 22 planned for that.

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1 and they would --  
 2 A. Yeah.  
 3 Q. -- get the rods from you?  
 4 A. Yeah.  
 5 Q. And, generally, you testified that it  
 6 would be for the convenience of your employees to  
 7 be able to utilize the existing at-grade crossing  
 8 and go south on Old Kirk Road as opposed to using  
 9 Route 38?  
 10 A. I'd say it's more safety than convenience.  
 11 Q. Okay. And if there was a traffic light at  
 12 the intersection of Old Kirk Road and Route 38,  
 13 would that make it more or less safe -- let me  
 14 say it this way.  
 15 Would it make it more convenient?  
 16 MS. DICKSON: Objection.  
 17 MR. SHUMATE: He's testified as to convenience  
 18 and I think he can answer that.  
 19 MS. DICKSON: No. My objection was based on  
 20 the fact that the potential -- the traffic light  
 21 at this -- at Old Kirk and Route 38, there has  
 22 been no evidence that IDOT would even consider

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1 I said if there was a traffic light that  
 2 would allow them to go in and out.  
 3 JUDGE TATE: Sustained.  
 4 MR. SHUMATE: Okay.  
 5 BY MR. SHUMATE:  
 6 Q. If you had a route for your employees and  
 7 customers to serve your business that did not  
 8 have to go across railroad tracks as opposed to  
 9 going across railroad tracks, would you prefer  
 10 that, from a standpoint of safety of your  
 11 employees?  
 12 A. My personal opinion is that if it's a --  
 13 if the railroad intersection is complying with  
 14 all the regular federal or state or whatever  
 15 codes, it's just as safe as any other  
 16 intersection.  
 17 Q. You testified that your employees would be  
 18 leaving work at around 7:00 -- excuse me, 3:30 to  
 19 5:00 o'clock; is that correct?  
 20 A. Uh-huh.  
 21 Q. Is that the rush hour?  
 22 A. On Roosevelt Road it certainly seems that

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1 way. I can't -- I don't know particularly what  
2 definition of rush hour, but that's when there's  
3 definitely a heavier traffic pattern at that  
4 time.

5 Q. Are you aware of whether there's commuter  
6 trains along the track crossing that we have  
7 talked about today?

8 A. Yes, there is.

9 Q. Are your employees ever stopped by a train  
10 because of the traffic signal, because of the  
11 railroad signal there?

12 A. I personally do not leave until about 5:00  
13 o'clock, so I can't testify as to whether between  
14 3:30 and 5:00 how many trains cross that and  
15 impede their crossing.

16 I imagine by looking at a train schedule  
17 going from Chicago to Geneva on the Metra there's  
18 a train about every 15 minutes so I imagine it  
19 would at one point or another stop them.

20 Q. Rather than having your employees travel  
21 over the railroad crossing as it exists today, is  
22 there anything that can -- do you feel that could

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## CROSS-EXAMINATION

BY

MR. BERRY:

4 Q. Looking at Exhibit No. 2, the aerial --  
5 that's the photograph that's in color.

6 Do you have that?

7 A. Uh-huh.

8 JUDGE TATE: Yes.

9 BY MR. BERRY:

10 Q. Okay. Looking at Cherry Lane, semi comes  
11 south or north on Kirk Road, turns to the right  
12 on Cherry Lane, can it make a left-hand turn to  
13 the north to go into your business? Is the  
14 turning radius large enough?

15 A. I'm sorry, can who? Anybody?

16 JUDGE TATE: No.

17 MR. BERRY: Can any --

18 JUDGE TATE: Tractor-trailer.

19 THE WITNESS: I don't know. I don't drive a  
20 truck.

21 BY MR. BERRY:

22 Q. So you have never seen a semi use that

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1 be done on Roosevelt Road that would make it more  
2 safe for your employees to exit your business?

3 A. My opinion, the only thing that would make  
4 it more safe is the traffic light that you spoke  
5 of earlier; but if you have ever been to that  
6 area, I mean it's extremely improbable that would  
7 ever happen because of the closeness of proximity  
8 between Old Kirk Road and Kirk Road. You're  
9 talking about only a hundred yards.

10 In my 30 years of living, I have never  
11 seen two traffic lights that close together let  
12 alone on a four-lane divided.

13 Q. That closeness you're talking about, is  
14 that about the same distance as the existing  
15 railroad crossing and the bridge that goes over  
16 our railroad tracks, about the same distance?

17 A. Yeah, about the same.

18 MR. SHUMATE: Okay. Thanks. I have no  
19 further questions.

20 JUDGE TATE: Mr. Berry.

21 MR. BERRY: Yes.

22

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1 intersection?

2 MS. DICKSON: For purposes of clarification,  
3 Judge, is that the intersection of Cherry and Old  
4 Kirk?

5 MR. BERRY: Yes.

6 THE WITNESS: I don't know. Your question is  
7 have I ever seen a truck on that road?

8 BY MR. BERRY:

9 Q. No, have you ever seen a truck make that  
10 turn?

11 A. No, but I see a full-length school bus do  
12 it every morning.

13 Q. What about the southern crossing, what is  
14 it --

15 A. It's the same -- it's the same width of  
16 the road.

17 Q. I forget the name of the roadway?

18 A. It actually is Old Kirk. It just makes a  
19 90-degree turn on the map. It says something  
20 else. On the map it says Southwest Lane.

21 MR. BERRY: Southwest Lane.

22 BY MR. BERRY:

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1 Q. You say it has the same dimensions?  
 2 A. Yeah. They're both just two-lane roads.  
 3 Q. You're saying they're both the same  
 4 two-lane road.  
 5 Have you ever measured the turning  
 6 radiuses at either location?  
 7 A. No, I have not.  
 8 Q. Are the railroad -- at the railroad  
 9 crossing on Old Kirk Road, are the -- is the  
 10 crossing equipped with just crossbuck signs?  
 11 A. No. There's gates.  
 12 Q. There's lights and gates?  
 13 A. Yes.  
 14 Q. Okay. Still looking at Exhibit No. 2,  
 15 where New Kirk Road crosses the railroad tracks,  
 16 does New Kirk Road cross the railroad tracks by  
 17 going over the railroad tracks?  
 18 A. Yes.  
 19 Q. And does it also go over the roadway  
 20 within your plant complex?  
 21 A. Yes. Reed Road.  
 22 Q. Reed Road.

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1 Brent Coulter.  
 2 BRENT COULTER,  
 3 having been called as a witness herein, after  
 4 having been first duly sworn, was examined and  
 5 testified as follows:  
 6 DIRECT EXAMINATION  
 7 BY  
 8 MS. DICKSON:  
 9 Q. Mr. Coulter, could you please state your  
 10 name and spell it for the record.  
 11 A. Yes. It's Brent, B-r-e-n-t, Coulter,  
 12 C-o-u-l-t-e-r.  
 13 Q. Mr. Coulter, what is your current  
 14 occupation?  
 15 A. I'm a registered professional engineer in  
 16 the State of Illinois and I specialize in traffic  
 17 and transportation planning and engineering.  
 18 Q. By whom are you currently employed?  
 19 A. I own my own company, Coulter  
 20 Transportation Consulting, and I'm also employed  
 21 by Semcon Limited.  
 22 Q. How long have you owned your own company,

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1 South of the railroad tracks, what kind  
 2 of land is located there?  
 3 Is that farmed land?  
 4 A. Where at?  
 5 Q. South of the railroad tracks on each side  
 6 of New Kirk Road.  
 7 A. The southwest side is part of the Kane  
 8 County Cougars baseball facility and the  
 9 southeast side, that's private property. That's  
 10 just a homeowner.  
 11 Q. Okay. Does he farm any of that --  
 12 A. Not --  
 13 Q. -- that you're aware of?  
 14 A. Not that I'm aware of. He's got horses.  
 15 MR. BERRY: That's all the questions I have.  
 16 Thank you.  
 17 JUDGE TATE: Mr. Harpring?  
 18 MR. HARPRING: No questions.  
 19 JUDGE TATE: Any redirect?  
 20 MS. DICKSON: No, your Honor.  
 21 JUDGE TATE: Thank you, Mr. DePaul.  
 22 MS. DICKSON: My next witness, your Honor, is

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1 Coulter Transportation Consulting?  
 2 A. For approximately a year and a half.  
 3 Q. What type of -- what is the nature of the  
 4 work that you do with Coulter Transportation  
 5 Consulting?  
 6 A. I do traffic impact studies, signal  
 7 warrant studies. I prepare intersection design  
 8 studies, traffic signal plans and related traffic  
 9 and transportation engineering types of projects.  
 10 Q. Who do you do those projects for  
 11 generally?  
 12 A. It's a mix of clients. Public agencies,  
 13 municipalities, counties, the state.  
 14 Private entities, primarily developers.  
 15 Q. When you say the state, would that be for  
 16 the Illinois Department of Transportation?  
 17 A. Yes.  
 18 Q. Are you currently doing any work for the  
 19 Department of Transportation?  
 20 A. I am in my function as an employee of  
 21 Semcon Limited, yes.  
 22 Q. Okay. And in your capacity as an employee

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1 and owner of Coulter Transportation Consulting,  
2 are you currently working for any governmental  
3 entities?

4 A. Yes.

5 Q. Could you provide the names of those  
6 entities?

7 A. I'm presently working for the City of  
8 Elmhurst, the City of Batavia, and Geneva  
9 Township.

10 Q. And when you say Geneva Township, would  
11 that be for John Carlson?

12 A. Yes.

13 Q. Would that be relative to the matter we're  
14 here for today?

15 A. That's correct.

16 Q. What is the nature of the work you do for  
17 Semcon Limited?

18 A. It's similar work --

19 Q. Okay.

20 A. -- as I described earlier.

21 Q. Then it would be traffic planning and  
22 impact studies?

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1 the large map, would you be able to show that on  
2 the large map?

3 A. Okay. Yes.

4 Q. I'm sorry, this is Exhibit No. 1.

5 JUDGE TATE: 2 is the one that was already.

6 MS. DICKSON: 2 is this one.

7 BY MS. DICKSON:

8 Q. Referring to Exhibit No. 1 where would  
9 have been the traffic -- where is Glengarry?

10 A. Glengarry, as I mentioned, is the first  
11 intersection that's signalized west of New Kirk  
12 Road and it would be this location right here.

13 Q. What was the nature of the work that you  
14 performed at that location?

15 A. We analyzed the capacity of the  
16 intersection of Glengarry and Route 38 with  
17 respect to added traffic from a new commercial  
18 development.

19 Q. As a result of your work on that project,  
20 were any improvements made to either Route 38 or  
21 Glengarry?

22 A. There were turn lane improvements made on

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1 A. Yes.

2 Q. How long have you worked for Semcon  
3 Limited?

4 A. I have been there for approximately 17  
5 years.

6 Q. What is your position with Semcon?

7 A. I'm a senior project manager.

8 Q. And for Semcon, have you done any traffic  
9 planning or traffic impact studies in the area of  
10 the Old Kirk Road crossing?

11 A. Yes, I have.

12 Q. What area would you have done work for for  
13 Semcon in the area of this railroad crossing?

14 A. In the vicinity of the subject crossing, I  
15 have done three projects in recent years.

16 One was a retail shopping center traffic  
17 generation study for a private client. This  
18 would be at Glengarry Drive and Roosevelt Road,  
19 Illinois Route 38. It's the first signal west of  
20 New Kirk Road on Route 38 so it's within a  
21 quarter mile of that intersection.

22 Q. If we referred to Exhibit No. 2 which is

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1 Route 38.

2 Q. With the assistance of the Illinois  
3 Department of Transportation?

4 A. Required a permit from IDOT and that was  
5 issued and approved.

6 Q. Okay. You stated that there were three  
7 projects you did in this vicinity.

8 Where would have been the second  
9 project?

10 A. I'll go from west to east.

11 The second one was for Wendy's, a  
12 drive-through restaurant on New Kirk Road  
13 approximately 1,000 feet or so north of Route 38.  
14 And that was, again, a traffic impact study for a  
15 new fast-food drive-through restaurant.

16 Q. And the third?

17 A. The third project was at Kautz Road and  
18 Route 38. That was an intersection design study  
19 for geometric improvements at Kautz and Route 38  
20 as well as the preparation of traffic signal  
21 plans including the railroad interconnect at  
22 Kautz, 38 and the Union Pacific Railroad.

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1 Q. As a result of the work that you did at  
2 Kautz Road and Route 38, were there any changes  
3 made to either Kautz Road or Route 38?

4 A. Yes.

5 Q. What were those changes?

6 A. The eastbound left-turn lane on Route 38  
7 was extended for use by vehicles waiting to turn  
8 from 38 on to Kautz Road. A new eastbound or a  
9 new westbound right-turn lane was added on  
10 Route 38 just west of Kautz. And additional  
11 turning lanes were added at Kautz Road. All  
12 basically in support of a new traffic signal  
13 installation at that location.

14 Q. Why was there determination made to add a  
15 traffic signal at that intersection?

16 A. This project was funded by State of  
17 Illinois economic development funds.

18 The signal warrant analysis was actually  
19 performed by the State of Illinois. This  
20 intersection has a history of severe personal  
21 injury and fatality accidents.

22 And as part of the growth and

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1 have been Route 38?

2 A. That's correct.

3 Q. Okay. You've been present for testimony  
4 relative to the potential for a traffic light as  
5 part of IDOT's reconstruction of Route 38 at Old  
6 Kirk Road.

7 Do you have -- do you have any knowledge  
8 or understanding of the amount of traffic using  
9 Old Kirk Road?

10 A. Yes.

11 Q. And what is that knowledge and  
12 understanding based on?

13 A. It's based on information that was  
14 provided by the Union Pacific Railroad as part of  
15 their petition for closure and they were traffic  
16 counts that dated from 1999. There is also in my  
17 materials some information, older information  
18 from 1994, I believe.

19 In addition to that I have also made  
20 personal observations of traffic flow on Old Kirk  
21 Road as part of my general reconnaissance of the  
22 area in question.

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1 development of the area west of New Kirk Road  
2 between New Kirk and Kautz north of Route 38 and  
3 in light of the existing traffic volume and  
4 accident history at that intersection, the State  
5 of Illinois did approve the installation of  
6 traffic signals at that location.

7 Q. You referenced signalization warrant  
8 analysis. What does that mean?

9 A. The State of Illinois uses the volume  
10 warrants from the Manual Uniform Traffic Control  
11 Devices which essentially lays out for various  
12 volume and accident criteria threshold values  
13 that would warrant consideration of a traffic  
14 signal.

15 Q. When you say volume, what do you mean?

16 Is that the amount of traffic on the  
17 road?

18 A. That's the amount of traffic entering the  
19 main arterial intersection as well as the traffic  
20 on the arterial itself passing by the side  
21 street, in this case Kautz Road.

22 Q. And the main arterial in this case would

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1 Q. Based on the understanding you have as to  
2 the volume of traffic currently existing or at  
3 least existing as of 1999 on Old Kirk Road, does  
4 the volume of traffic -- would the volume of  
5 traffic meet a warrant requirement for  
6 signalization at Old Kirk and Route 38?

7 A. I've not prepared a warrant study for this  
8 intersection, but based on those counts and my  
9 observations of how traffic behaves and  
10 specifically how it turns from Old Kirk on to  
11 Route 38, I would say the chances of meeting the  
12 volume warrant criteria are very, very low.

13 Q. What is your understanding of the --  
14 strike that.

15 You also reference safety criteria --

16 A. Yes.

17 Q. -- that IDOT looks to?

18 What is that?

19 A. Basically one of the warrants in the  
20 Manual Uniform Traffic Control Devices is related  
21 to a history of accidents that could be mitigated  
22 or remedied by the installation of the traffic

219

1 signal.

2 Typically that's five accidents of that  
3 type within any given year.

4 Q. Are you aware of the accident history at  
5 Old Kirk and Route 38?

6 A. No, I'm not.

7 Q. Backing up for a moment, if we could, what  
8 is your educational background, Mr. Coulter?

9 A. I have a bachelor's degree in civil  
10 engineering from Vanderbilt University.

11 I have a master's in urban planning and  
12 transportation from the University of Iowa.

13 Q. And after graduation from the University  
14 of Iowa, what was your first professional job?

15 A. My first job is with the Birmingham  
16 Regional Planning Commission.

17 Q. In Alabama?

18 A. In Alabama, yes.

19 Q. What did you do for them?

20 A. The -- that Planning Commission was an  
21 MPO, Metropolitan Planning Organization. They  
22 were responsible for the programming of federal

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1 A. I was there approximately eight or nine  
2 years.

3 Q. Okay. What was the principal function  
4 that you performed for the County of DuPage?

5 A. We prepared the -- DuPage County was  
6 responsible for the preparation of the DuPage  
7 County highway and transit plans, so we did  
8 studies related to the development and adoption  
9 of those plans as well as site specific studies  
10 that we performed for various communities in the  
11 county corridor, arterial corridor studies,  
12 access control studies and so on and so forth.

13 Q. Okay.

14 A. We also prepared the first access control  
15 guidelines for the DuPage County Highway  
16 Department.

17 Q. What are access control guidelines?

18 A. Those are guidelines which establish the  
19 location, design and operation of new access on  
20 an arterial highway system.

21 Q. Okay. And after leaving the DuPage County  
22 Development Department, where did you go?

222

1 highway and transit dollars.

2 I worked on the preparation of  
3 highway -- regional highway and transit plans  
4 primarily.

5 Q. Okay. And after leaving the Birmingham  
6 Regional Planning Commission, where did you next  
7 go for employment?

8 A. I came to DuPage County where I was  
9 employed by the DuPage County Regional Planning  
10 Commission or the DuPage County Development  
11 Department.

12 Q. Where is DuPage County relative to Geneva  
13 Township?

14 A. DuPage County is the county that is just  
15 east of Kane County. Therefore it's adjacent to  
16 Kane County and to Geneva Township.

17 The county line is actually Kautz Road.  
18 So County Development Department is in Wheaton  
19 which is approximately 12 miles or so from this  
20 site.

21 Q. How long did you work for the DuPage  
22 County Development Department?

221

1 A. I then went to the DuPage County Highway  
2 Department.

3 Q. What did you -- how long were you with the  
4 highway department?

5 A. Approximately two and a half or three  
6 years.

7 Q. What did you do while as an employee of  
8 the DuPage County Highway Department?

9 A. I was initially chief of traffic plans and  
10 programs and left as superintendent of highways.

11 Q. In your capacity as superintendent of  
12 highways, what was your chief function or  
13 functions?

14 A. The superintendent is responsible for the  
15 management of highway department personnel,  
16 engineering and maintenance staff.

17 At that point we had a budget in the  
18 tens of millions of dollars for highway operation  
19 and capital improvements as well as maintenance  
20 activities.

21 Q. And after leaving the county, is that when  
22 you went to Semcon?

223



1 A. That's correct.

2 Q. Okay. So would it be fair to say from  
3 this that the whole of your professional career  
4 has been -- has revolved around traffic planning  
5 and traffic studies?

6 A. And highway design and operation, that's  
7 correct.

8 MS. DICKSON: Your Honor, if I could mark this  
9 as an exhibit.

10 JUDGE TATE: You have copies?

11 MS. DICKSON: Yes.

12 (Whereupon, Respondent's  
13 Exhibit No. 16 was marked  
14 for identification.)

15 BY MS. DICKSON:

16 Q. Showing you what we have just marked as  
17 Exhibit No. 16, Mr. Coulter, can you identify  
18 this document?

19 A. That's my resume.

20 Q. And is this resume current as of today's  
21 date?

22 A. Yes.

224

1 petition package from the Union Pacific Railroad.

2 Had input from Mr. Carlson regarding  
3 what he understood to be some of the potential  
4 problems with the crossing petition.

5 Had available to me a letter from Kane  
6 County Division of Transportation regarding their  
7 position on the closing of this crossing and  
8 spoke with Kane County staff regarding the phase  
9 one engineering study which -- for which they're  
10 a lead agency at the intersection of New Kirk  
11 Road and Route 38.

12 I also had conversations with the City  
13 of Geneva, their public works department, their  
14 economic development department and their  
15 planning department.

16 Q. Okay. Let's address each of those a  
17 little bit individually.

18 One of the things that you said you had  
19 tendered to you was a correspondence from the  
20 Kane County division of transportation.

21 Would that be Exhibit No. 13?

22 A. Yes, it is.

226

1 Q. Thank you, your Honor.

2 Thank you, Mr. Coulter.

3 Earlier on you testified that you are  
4 working for the Geneva Township highway  
5 commissioner relative to this road crossing.

6 What was the assignment that you were  
7 given in this regard?

8 A. The assignment was to assess the impact of  
9 the potential closing of the UP Railroad at Old  
10 Kirk Road on traffic generated by residences and  
11 businesses along Old Kirk Road.

12 Q. And as part of that assignment, what did  
13 you do?

14 I think you testified that you did some  
15 personal observation of traffic?

16 A. That's correct, to get a feel for the  
17 issue and familiarize myself with the crossing  
18 and its environment, I did spend some time on Old  
19 Kirk Road looking at traffic flow, evaluating the  
20 nature of the surrounding area.

21 I read transcripts from -- available  
22 from the previous hearings as well as the

225

1 Q. Okay. And in Exhibit No. 13, does the  
2 Kane County division of transportation reference  
3 the phase one engineering of the intersection at  
4 Old Kirk Road and Route 38?

5 A. Yes.

6 Q. What is your understanding in regard to  
7 the phase one engineering?

8 A. At the time that I spoke with the county  
9 engineer who was essentially the project manager  
10 on that phase one study, he had indicated to me  
11 that this would be a major intersection  
12 improvement, that dual left-turn lanes and  
13 probably right-turn lanes would be added on all  
14 approaches to the intersection.

15 We discussed specifically because of the  
16 Old Kirk Road issues what might happen with Old  
17 Kirk Road, and it was his opinion that it was  
18 likely that Old Kirk Road would be limited to  
19 right-ins and right-outs only with the  
20 implementation of the major intersection widening  
21 at New Kirk and Route 38.

22 Q. Did he indicate to you why consideration

227

1 was under way to limit it to right-in /right-out  
2 only?

3 A. Yes.

4 Old Kirk Road is only 600 feet or so  
5 east of New Kirk Road on Route 38. There is a  
6 crest on Route 38, a slight hilltop at the  
7 intersection of Route 38 and New Kirk Road which  
8 severely limits or shortens sight distance  
9 available for oncoming traffic as it approaches  
10 Old Kirk Road and for Old Kirk Road traffic as it  
11 attempts to make a left turn or right turn out  
12 and even a left turn in coming from the east.

13 That proximity and the limitation of  
14 sight distance was a major reason in, I believe,  
15 the county engineer's opinion that this Old Kirk  
16 Road intersection would, in fact, be modified as  
17 part of the Kirk -- New Kirk, Route 38  
18 intersection improvement.

19 Q. If the -- if the Old Kirk Road  
20 intersection with Route 38 is modified to  
21 right-in /right-out only, in your opinion as the  
22 traffic planner, would that impact the businesses

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1 familiar with alternate routings, the safest  
2 route would be to go west on Route 38 over to  
3 Kautz Road, back -- I'm sorry, east on Route 38  
4 over to Kautz Road, back west on Avril Road which  
5 intersects New Kirk Road with a full access, make  
6 a left out of that unsignalized intersection and  
7 then back south to the intersection of Route 38  
8 and New Kirk Road where they could then travel  
9 west through the city of Geneva.

10 Q. Isn't it possible that travelers heading  
11 east on Route 38, are there any areas or  
12 opportunities for them to turn around so that  
13 they could head west on Route 38?

14 A. Well, that's -- that would be the unsafe  
15 alternative to what I just described.

16 Q. Why is that an unsafe alternative?

17 A. The Route 38 cross section is really --  
18 and the volume of traffic on Route 38 is really  
19 not designed to accommodate a high volume or  
20 frequency of U-turns on Route 38 itself.

21 There are opportunities either in  
22 private business driveways or residential streets

230

1 located north of the railroad tracks if the  
2 railroad tracks are also closed?

3 A. Yes. It would have a very adverse impact  
4 on these businesses.

5 Q. How would it be an adverse impact?

6 A. It significantly increases the length of  
7 travel that would be required for those vehicles  
8 to reach their ultimate destination, either  
9 coming into the site from the east but in  
10 particular leaving the site to go south, north or  
11 west.

12 Q. Okay. Specifically given that scenario  
13 that the Old Kirk Road crossing is closed and  
14 Roosevelt Road is limited to right-in/right-out,  
15 if a traveler, let's say an employee of Welding  
16 Materials, wanted to head west, what would be the  
17 fastest, safest route for those employees to take  
18 looking at -- referring to Exhibit No. 1?

19 A. With the crossing closed.

20 Q. With the crossing closed?

21 A. With the crossing closed, and assuming we  
22 are talking about an employee who would become

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1 for those same vehicles to come down, turn into  
2 one of those streets, in this case Elm is another  
3 five or 600 feet west -- east of Old Kirk Road,  
4 but they'd have to turn into a private  
5 residential driveway, back up, come back out and  
6 make a maneuver.

7 That's not the kind of movement that I  
8 would want the public to make on a regular or  
9 routine basis to compensate for the lack of a  
10 crossing of Old Kirk and the UP Railroad.

11 Q. In your experience is that the type of  
12 maneuver that you might expect, however?

13 A. Absolutely. And we have a real live  
14 example right down the road at Kautz Road and  
15 Route 38.

16 Prior to the installation of traffic  
17 signals at that intersection, Kautz Road traffic  
18 heading southbound that wanted to go east on  
19 Route 38 was faced with a very, very difficult  
20 left-turn maneuver, not unlike the difficulty  
21 that you'd have at Old Kirk Road and Route 38 in  
22 our area.

231

1 Instead of making that left turn, many  
2 vehicles would make a right turn, go to a motel  
3 that was approximately 800 to a thousand feet  
4 west of the intersection, turn into that motel on  
5 a horseshoe-shaped driveway and come back out  
6 heading east on Route 38.

7 There are signs at that hotel to this  
8 day prohibiting U-turn maneuvers through that  
9 site because of the fact that it's dangerous.

10 You have vehicles who are in a rush to  
11 get to their final destination, they're traveling  
12 at high speeds through that private driveway and  
13 it did create some problems for the business  
14 owner.

15 That's exactly the kind of situation  
16 that we'd want to avoid in the event of a  
17 crossing closure at Old Kirk Road.

18 Q. Were you able -- are you aware of the  
19 crossing -- of the closure of a crossing criteria  
20 that the Illinois Commerce Commission looks to to  
21 determine whether a crossing can or should be  
22 closed?

232

1 let me first describe what I understand adverse  
2 impact to be based on review of the ICC criteria.

3 Adverse impact would be the extra  
4 distance, the additional length of travel that a  
5 vehicle would incur on an alternate route to make  
6 up for the crossing closure at the UP and Kirk  
7 Road, Old Kirk Road in this particular case.

8 Q. Can I interrupt you for a minute?

9 A. Yes.

10 Q. Does that have anything to do then with  
11 the proximity of New Kirk Road to Old Kirk Road?

12 A. It does, but the influence of New Kirk  
13 Road is much more pronounced for the residential  
14 area south of the UP Railroad than it is for the  
15 business area to the north of the railroad.

16 Q. So the mere proximity of New Kirk Road to  
17 Old Kirk Road doesn't necessarily mean that  
18 it's -- just because it's close doesn't mean that  
19 it does not adversely impact someone's travel  
20 time?

21 A. That's correct.

22 In the case of the business area in

234

1 A. Yes. I did review that as part of my  
2 involvement in this case.

3 Q. Is one of those criteria that the ICC  
4 looks to the impact on adverse -- the adverse  
5 impact on distance to be traveled if a crossing  
6 is closed?

7 A. Yes, it is.

8 Q. You were present for the testimony that we  
9 had from the Union Pacific, were you not?

10 A. From our hearing --

11 Q. In the last hearing.

12 A. -- two weeks ago, yes.

13 Q. To your knowledge did the Union Pacific  
14 perform any adverse impact study?

15 A. I did not hear evidence of that at the  
16 last hearing nor did I see any evidence of that  
17 in the transcripts that I reviewed previously.

18 Q. Did you perform any adverse impact study?

19 A. Yes.

20 Q. Can you describe how you performed the  
21 adverse impact study?

22 A. Probably before I described what I did,

233

1 particular, the proximity of New Kirk Road to Old  
2 Kirk Road is in many respects meaningless.

3 Q. Okay. If you would proceed then with your  
4 understanding of the adverse impact.

5 A. Well, as I just described them, the  
6 adverse impact is the extra length of travel  
7 required to circumvent a crossing closure.

8 And maybe the easiest way to show what  
9 we did then is to give an example, and we'll take  
10 the one that you brought up earlier of a person  
11 leaving, let's say, the business area from Reed  
12 Road at Old Kirk Road and wanting to travel west  
13 past or through the City of Geneva.

14 Without the grade crossing in place,  
15 without the grade crossing open, and either  
16 assuming that this Old Kirk Road intersection  
17 will be limited to right turns or based on my  
18 observations given the fact that most vehicles  
19 will make a right turn out of this intersection  
20 because of the difficulty and potential safety  
21 problems associated with making a left turn out  
22 of this intersection, I tracked the distance over

235

1 the road from Reed Road at Old Kirk up Old Kirk  
2 to Route 38, Route 38 east to Kautz, Kautz north  
3 to Avril, Avril west to New Kirk Road, and then  
4 south on New Kirk to the Route 38/New Kirk  
5 intersection, and I compared that distance with  
6 what the alternative distance would have been  
7 with the crossing in place which is to go from  
8 Reed Road at Old Kirk Road south across the  
9 tracks down to Cherry Lane, a right turn at  
10 Cherry Lane on to New Kirk Road and then back up  
11 to the Kirk Route 38 intersection.

12 Those distances were all measured over  
13 the road, they were measured using a GPS, global  
14 positioning system device, so the accuracy is  
15 pretty good, much better than a vehicle odometer.

16 And we did that for each of the cases  
17 that would require a vehicle from this business  
18 area in particular to take an alternative travel  
19 path.

20 Q. What was the difference then between the  
21 going from the crossing the railroad track and  
22 accessing New Kirk from Cherry or if the crossing

236

1 into the business area from the Old Kirk  
2 Road/Route 38 intersection.

3 Q. What is the difference in adverse impact  
4 area -- adverse impact traffic then?

5 A. For vehicles that are leaving the business  
6 area and going south on New Kirk Road, the  
7 adverse distance, depending on the travel route  
8 alternative used, varies from 2.39 to 3.61 miles  
9 for vehicles going to the north.

10 MR. BERRY: 2.39 to what.

11 THE WITNESS: 2.39 up to 3.61 miles.

12 MR. BERRY: Thank you.

13 THE WITNESS: For vehicles heading north on  
14 New Kirk Road, the adverse distance or extra  
15 distance travel would be .78 miles.

16 And for vehicles that are accessing the  
17 site coming from the east, the adverse distance  
18 would be .12 miles.

19 BY MS. DICKSON:

20 Q. With that being said, I direct your  
21 attention to the fact that within the Illinois  
22 Commerce Commission rules as to adverse impact,

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1 is closed?

2 A. In the case of what we just described,  
3 which -- what I just described, which is the  
4 vehicle intending to leave and go west past New  
5 Kirk Road on Route 38, the adverse distance is  
6 1.4 miles.

7 That means it will take that vehicle an  
8 additional 1.4 miles to reach the same point that  
9 they otherwise would have reached if the crossing  
10 were to remain open.

11 Q. Are you able to estimate that 1.4 mile  
12 difference in time?

13 A. I have not done that. It's certainly  
14 possible to do.

15 Q. Did you do any other adverse impact  
16 studies in terms of any other route?

17 A. Yes.

18 We did the same kind of analysis for  
19 vehicles leaving the business industrial area and  
20 heading south on Kirk Road and also going north  
21 on Kirk Road as well as vehicles coming from the  
22 east on Route 38 who wished to make a left turn

237

1 it states that you -- there's a determination  
2 made as to whether the property is located or the  
3 adverse impact caused is in an incorporated area  
4 versus an unincorporated area.

5 Are you aware of that distinction?

6 A. I'm aware of the language that they used  
7 to classify adverse distance, yes.

8 Q. In your opinion, does that  
9 classification -- is that classification of merit  
10 in this area?

11 A. Well, incorporated and unincorporated are  
12 political boundaries, and as somebody who deals  
13 with the real world and we're talking about  
14 travel times and distances and the character of  
15 an area, incorporated and unincorporated often  
16 don't have a lot of meaning. But that's -- those  
17 are the definitions that we have to deal with.

18 I don't think they're probably the most  
19 accurate descriptors of the environment in which  
20 the adverse distance criteria would be applied,  
21 but that's what is being used.

22 Q. So even if this property might be located

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1 in an unincorporated area, it still would provide  
2 a severe adverse impact to the rest -- to the  
3 businesses, their employees, their vendors, their  
4 customers?

5 A. Well, in my opinion, yes, because I think,  
6 in fact, this area, if I could use the  
7 terminology suburban as a surrogate for  
8 incorporated and rural as a surrogate for  
9 unincorporated, this is clearly a suburban area.

10 It's on the east end of the City of  
11 Geneva. The City of Geneva has extended sewer  
12 and water down actually the railroad right-of-way  
13 all the way west or east to Kautz Road.

14 The city has recently annexed additional  
15 industrial development as far east as Kautz Road  
16 along the south side of Avril Road.

17 There are concept plans that have been  
18 discussed with city staff right now that cover  
19 the area east of Old Kirk Road south of Route 38  
20 and north of the UP Railroad that would be the  
21 area just to the northeast of the subject  
22 crossing.

240

1 traffic planner and consultant, is there a  
2 standard for point of access that traffic  
3 planners try to provide?

4 A. For development such as business park or  
5 shopping center?

6 Q. Yes.

7 A. Residential subdivision, yes.

8 It's generally good planning practice to  
9 have a minimum of two points of ingress and  
10 egress for a development, and that planning  
11 principal is primarily related to the provision  
12 of emergency vehicle access or access in  
13 emergency situations for the site.

14 Q. And when you talk about two points of  
15 access, would -- if the railway crossing is  
16 closed at Old Kirk Road, would these businesses  
17 north of Old Kirk Road be deprived of two points  
18 of access?

19 A. They would be deprived of multiple points  
20 of access including one signalized access on New  
21 Kirk Road. And there's a very, very high  
22 probability that with the implementation of the

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1 In addition, as it so happens, the  
2 railroad right-of-way as it extends through the  
3 City of Geneva is actually shown on Geneva's  
4 official zoning map as incorporated area.

5 This railroad right-of-way has  
6 previously been annexed to the City of Geneva.

7 So whether we want to get real technical  
8 with our definition of incorporated,  
9 unincorporated, or whether we want to talk about  
10 the character of the area, it's my opinion that  
11 this area is, in fact, suburban in nature,  
12 incorporated to the letter of the criteria  
13 outlined by the ICC, and that the adverse impact  
14 distance outlined under the incorporated standard  
15 is what should apply in this case.

16 Q. And in that case if that standard was the  
17 standard to be applied, does this crossing meet  
18 that standard -- would the closing of the  
19 crossing meet that standard?

20 A. Not for the business industrial area north  
21 of the UP Railroad.

22 Q. In your professional experience as a

241

1 New Kirk Road/Route 38 intersection improvement  
2 that their remaining access would be limited to  
3 only certain movements.

4 Q. Meaning right-in/right-out?

5 A. Right-in and right-out only.

6 Q. When you met with the planners and staff  
7 of the Kane County Department of Transportation  
8 was any consideration given to ingress and egress  
9 for these property owners during reconstruction  
10 of Route 38?

11 A. It's my understanding based on my  
12 conversation with staff that that is, in fact,  
13 one of the advantages of the crossing remaining  
14 open, at least, you know, from the standpoint of  
15 construction impact to accommodate traffic that  
16 might be limited at Old Kirk Road and Route 38  
17 just for construction only, let alone any  
18 permanent modifications.

19 Q. Do I understand you to mean that at least  
20 if the crossing was not closed then these --  
21 there's the potential that Roosevelt Road could  
22 be closed to Old Kirk during road construction?

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1 A. There's always that possibility, yes.  
 2 Q. However --  
 3 A. Whether it's permanent for the duration of  
 4 the intersection improvement or whether it's  
 5 intermittent depending on certain construction  
 6 activities that are taking place.

7 Q. In your review of the documentation  
 8 submitted by the Union Pacific in support of its  
 9 petition for crossing, are there other criteria  
 10 that are not met in regard to the potential  
 11 closing of this crossing?

12 A. I think we kind of touched one which was  
 13 the multiple points of ingress as it relates to  
 14 emergency access needs.

15 The other general criteria very similar  
 16 to what we see in zoning cases for public health,  
 17 safety and welfare, and within that category I  
 18 would include something we touched on a little  
 19 earlier is without proper alternative routes to  
 20 serve the business area north of the tracks and  
 21 with the crossing closed, we increase the  
 22 potential for adverse safety impacts at this

244

1 reconstruction of Route 38?

2 A. Correct.

3 Q. Or is that the reason?

4 A. That's correct.

5 Q. Are you familiar with the testimony of the  
 6 Union Pacific that the -- one of the reasons  
 7 they'd like to see this closed is because of the  
 8 redundancy of the New Kirk Road crossing?

9 A. I've heard that phrasing used to describe  
 10 the relationship, yes.

11 Q. Given what you understand to be the Old  
 12 Kirk Road crossing and the New Kirk Road  
 13 crossing, is the new -- are those crossings -- is  
 14 the Old Kirk Road crossing redundant?

15 A. In this particular case, the Old Kirk Road  
 16 crossing is not redundant to the New Kirk Road  
 17 grade separation primarily because of the access  
 18 needs of the business industrial area to the  
 19 north of the tracks and the proximity of Old Kirk  
 20 Road to the Route 38/New Kirk Road intersection,  
 21 and the operational problems that are created at  
 22 that point.

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1 intersection because of motorists become  
 2 impatient, maybe making illegal left turns,  
 3 making U-turns across a very, very high volume of  
 4 Route 38 traffic, also a high speed travel; or  
 5 turning into private business or residence  
 6 driveways in order to turn around and shorten  
 7 their route length as they in particular leave  
 8 the site.

9 Q. Do you have an opinion in your -- based  
 10 upon your training, your education, and your  
 11 professional background, as to whether the  
 12 crossing at Old Kirk should be closed?

13 A. Well, I think in general the goal of the  
 14 objective of closing unnecessary crossings is a  
 15 good one, and I get involved with railroad grade  
 16 crossings on many projects and I certainly have  
 17 no objection to that.

18 I think in this particular case given  
 19 the unique circumstances associated with this  
 20 crossing that at the very least the petition to  
 21 close right now is premature at best.

22 Q. And that's because of the foreseen

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1 Q. Okay. We've addressed specifically the  
 2 businesses to the north of the Old Kirk Road  
 3 crossing.

4 Did you analyze at all the impact the  
 5 crossing would have on the residences to the  
 6 south of the crossing?

7 A. In a cursory fashion, not in as much  
 8 detail as I did the business industrial area.

9 Q. Was there a reason that you didn't do more  
 10 than a cursory examination?

11 A. It was a conscious decision based on the  
 12 fact that the residential area to the south does  
 13 have two access points, one of those access  
 14 points is signalized.

15 In the event of the crossing being  
 16 closed, they still have access to New Kirk Road.  
 17 I had quickly reviewed what the adverse distance  
 18 would be in the case of the residential area to  
 19 the south and concluded that it was not  
 20 significant.

21 Q. So here the focus really must be then on  
 22 the businesses to the north?

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1 A. That's been my focus, yes.

2 MS. DICKSON: I don't have any other  
3 questions, your Honor.

4 JUDGE TATE: Mr. Shumate.

5 MR. SHUMATE: Thank you.

6 CROSS-EXAMINATION

7 BY

8 MR. SHUMATE:

9 Q. Touching on what you said with regard to  
10 the residential area which is south of the  
11 railroad tracks, I'll call it the unincorporated  
12 area that's in the township where the residents  
13 are and the church and a daycare, you said that  
14 there would not be a significant impact to the  
15 residents?

16 A. Well, I said I didn't think that the  
17 adverse distance impact would be significant.

18 The impact on the residents would relate  
19 more to convenience from the standpoint of the  
20 operation of the Kirk Road/Route 38 intersection.

21 Residents that are -- or traffic  
22 generated from the area south of the tracks

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1 significant and in many cases exceeds the ICC's  
2 own criteria for adverse distance.

3 Q. Do you know how many businesses are along  
4 Reed Road, the ones that would be adversely  
5 impacted?

6 A. I was able to write down the name of maybe  
7 five or six businesses.

8 Q. Okay. And did you do a traffic count of  
9 how many vehicles would come in and out of there  
10 in a day that would include the vendors,  
11 customers, employees?

12 A. We -- I made some personal notes on  
13 traffic in and out for the various times of the  
14 day that I was there physically observing traffic  
15 flow on Old Kirk Road, the operation of the  
16 crossing and so on.

17 We did not do an extensive 12-hour or  
18 24-hour traffic count.

19 There was the 1999 count done by the UP  
20 Railroad, and based on my observations and after  
21 a while you get pretty good looking at traffic on  
22 a short-term basis and assessing what it's going

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1 that's heading east on Route 38 is able to make a  
2 right turn out of Old Kirk Road and perhaps avoid  
3 congestion or adding to congestion at the New  
4 Kirk/Route 38 intersection.

5 Q. Well, you mentioned it would not be a  
6 significant impact. You mentioned the  
7 businesses, and that your adverse impact analysis  
8 focused on the businesses; is that correct?

9 A. Yes, it is.

10 Q. Is that because there's not that many  
11 vehicles that come out of the business area?

12 A. No, the reason I focused on the business  
13 industrial area north of the tracks is because,  
14 as I stated previously, with the crossing closed,  
15 they are limited to one access point to the  
16 surrounding highway system and that access point  
17 may, in fact, itself be limited to only certain  
18 turning movements.

19 The adverse distance, the extra length  
20 that those business industrial vendors,  
21 customers, employees that would have to travel to  
22 circumvent the closed crossing is quite

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1 to be on a daily basis.

2 I think the counts that were done in  
3 1999 are probably still pretty valid for this  
4 particular issue.

5 Q. So if I hear what you're saying, there is  
6 not enough traffic to warrant -- there's too much  
7 traffic to warrant closing the crossing but not  
8 enough traffic to warrant the traffic light?

9 A. I didn't say anything about not enough  
10 traffic to not warrant closing the crossing.

11 My focus was on the adverse distance  
12 that those vehicles have to travel in order to  
13 circumvent the crossing closure and this is  
14 particularly for the business and industrial  
15 areas to the north.

16 I was asked a question whether or not  
17 the volume warrant for signals would be met at  
18 this location, and my estimate because I have, as  
19 I indicated, I have not performed a signal  
20 warrant study, was that no, they probably  
21 wouldn't be.

22 The bottom line is that the spacing of

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1 Old Kirk Road to New Kirk Road is such that --  
 2 and the sight limitations are such that even if  
 3 signals are warranted, I would find it, based on  
 4 my experience working with IDOT for many, many,  
 5 many years and in recognition of good traffic  
 6 intersection design principles, that this  
 7 intersection would never be signalized.

8 I find it much more likely that Old Kirk  
 9 Road would be relocated further east at some  
 10 point in time perhaps in conjunction with new  
 11 development to the east of Old Kirk itself.

12 Q. Okay. Let's focus on that just for a  
 13 second because you mentioned that this was a  
 14 suburban area in your estimation, correct?

15 A. Yes.

16 Q. Okay. And that there were plans with  
 17 regard to the area that is west of where the  
 18 existing businesses are along Reed Road?

19 A. There are property owners that have  
 20 organized to investigate development  
 21 possibilities east of Old Kirk Road.

22 Q. Okay. If that takes place will whatever

252

1 owns?

2 A. It's not new, but yeah, that exists.

3 Q. Is it more than 20 years old?

4 A. I believe it's probably in the range of  
 5 five to ten years old.

6 Q. Okay. And then are you aware of a plan  
 7 for a bridge at the intersection of the same  
 8 railroad tracks and Route 38 near Kautz?

9 A. I'm aware that DuPage County has  
 10 undertaken a phase one feasibility study of such  
 11 an improvement.

12 Q. Will the intersection at Kautz Road be  
 13 removed when that bridge is installed?

14 A. If and when the bridge -- the grade  
 15 separation of the UP and Roosevelt Road or  
 16 Route 38 is ever accomplished, based on the plans  
 17 of the concepts that exist today, Kautz Road  
 18 would remain open at Route 38 but Route 38 would  
 19 span the railroad. There would be a grade  
 20 separation.

21 Q. Okay. So it would be railroad tracks  
 22 going over Route 38?

254

1 governmental authority is in charge, whether it's  
 2 the township, the county or the state, they're  
 3 going to require access in and out of that area,  
 4 right, for life, health and safety?

5 A. There will be an access to that newly  
 6 developed area.

7 Q. And more than likely it will be a double  
 8 access because you said you should have two  
 9 accesses; is that correct?

10 A. It's conceivable, yeah, that there could  
 11 be a full access as well as right-turn-only  
 12 access to serve that new development.

13 Q. Okay. And then there's some significant  
 14 activity on Kautz Road. You mentioned you worked  
 15 on that, right?

16 A. Yes.

17 Q. And just to the north of that  
 18 intersection, what is the new plant, Pillsbury  
 19 and Millard Refrigeration, correct?

20 A. That's correct.

21 Q. And just to the east of there, there's the  
 22 new big golf course Prairie Landing that DuPage

253

1 A. Well, I've seen concepts where Route 38  
 2 goes over the railroad.

3 Q. And that is my understanding too.

4 And so this intersection would still be  
 5 relatively close to where the -- where the tracks  
 6 and where Route 38 converge?

7 A. We're talking about the intersection --

8 Q. Of Kautz Road?

9 A. -- redesigned intersection of Kautz Road  
 10 Route 38 and the UP Railroad?

11 Q. Uh-huh, yes.

12 A. My understanding is that it would be more  
 13 or less in this same general vicinity.

14 The limits of the project may extend  
 15 east and west, but the location of Kautz Road  
 16 itself would be more or less in this vicinity.

17 Q. Okay. And vehicles are coming -- if it  
 18 comes a bridge there, then that that would be a  
 19 sightline that would be relatively high relative  
 20 to Kautz Road which is at grade, right?

21 A. Whatever improvement was made would have  
 22 to meet the state's sight distance and vertical

255



1 curve criteria.

2 Q. So there's a lot of development that is  
3 planned in this area. We're talking about other  
4 bridges, we're talking about development for  
5 other businesses?

6 A. That's correct. There's a lot of land  
7 development that both exist and has the  
8 possibility of occurring in this area.

9 Q. Do you know of any plans to have Reed Road  
10 extended into some way that will either hook up  
11 to Kirk Road or Route 38 or some other major  
12 arterial area?

13 A. That concept has been discussed in the  
14 past.

15 Q. And is there a plan that DuPage County has  
16 to extend Kautz Road south to Fabyan Parkway?

17 A. They are, in conjunction with the grade  
18 separation that we just referenced, the county  
19 would look to extend Kautz Road, I believe, as  
20 part of that improvement.

21 Q. Okay. You have a lot of experience with  
22 DuPage County in the planning and traffic works,

256

1 in Kane County or DuPage County, that's your  
2 knowledge, where you have a signalized  
3 intersection that has that distance or less?

4 A. Not with the adverse sightlines that  
5 this -- that the New Kirk/Route 38 intersection  
6 has, no.

7 Q. If you have signalization do the adverse  
8 sightlines still come into play?

9 A. Yes.

10 Q. Why?

11 A. Traffic that is heading east through this  
12 intersection on Route 38 still has to travel  
13 through Kirk Road.

14 They will encounter traffic that may be  
15 stopped at -- if there were signals at Old Kirk  
16 and Route 38, that may be stopped on Route 38 for  
17 that signal.

18 As that -- as those queues of vehicles  
19 begin to stack up west of the intersection, that  
20 creates a real safety problem in terms of  
21 sightlines.

22 Q. Okay. Now, you indicated that Route 38

258

1 correct?

2 A. Yes.

3 Q. Let me pick a town in DuPage County  
4 because I'm familiar with it. Let's take Oak  
5 Brook, Illinois?

6 A. Okay.

7 Q. And is -- there's an intersection, two  
8 intersections both signalized very close  
9 together. I believe it's a county road. It's  
10 called Midwest Road. Are you aware of that?

11 A. I'm aware of Midwest Road. I'm not sure  
12 what cross streets you're talking about.

13 Q. Well, there's an S-curve road not unlike  
14 Kirk Road. It has a little of an S turn to it  
15 which is Midwest Road at the intersection of 35th  
16 Street is where the Oak Brook Hills Hotel is?

17 A. Right.

18 Q. And literally less than quarter of a block  
19 to the north of that there's another signalized  
20 crossing at grade.

21 A. I'm not aware of the specific distance.

22 Q. Okay. Are you aware of any intersections

257

1 was scheduled to be rehabilitated or  
2 reconfigured?

3 A. I think I stated that Kane County was the  
4 lead agency on a phase one engineering project  
5 that is addressing the improvement of this  
6 intersection.

7 Q. In addressing the improvement of that  
8 intersection, would they improve the sightlines?  
9 Does that ever happen?

10 A. I have been told that that's probably not  
11 very likely.

12 Q. In your experience has it happened before?

13 A. It has happened before, but not with the  
14 presence of a bridge structure such as exists on  
15 New Kirk Road.

16 The profile of New Kirk Road  
17 particularly to the south of Route 38 is very  
18 much dictated by this bridge structure which is  
19 on piers and has a span literally of a quarter  
20 mile or so.

21 The chances of modifying the profile on  
22 this bridge structure substantially I think are

259

1 very slim and I think that's probably what Kane  
2 County was referring to.

3 Q. Could you take Old Kirk Road and  
4 reconfigure it to the east and have an acceptable  
5 intersection with a signal at Route 38?

6 A. Could we take --

7 Q. Old Kirk Road to the east.

8 A. And reconfigure to the east? That's a  
9 possibility.

10 Q. Okay. Do you know if there are any  
11 businesses or homes in that area to the east now?

12 A. Well, this entire area would be part of  
13 the potential redeveloped area east of Old Kirk  
14 Road.

15 Right now that's a seed. It's  
16 somebody's concept, somebody's idea of what could  
17 happen here.

18 Realistically something of this nature  
19 could take many, many years to come to fruition.  
20 But yes, it's conceivable that existing  
21 businesses would be razed to make way for new  
22 development in that area.

260

1 see the county planners or the township planners  
2 recommend?

3 A. I -- based on my experience?

4 Q. Yes, sir.

5 A. And based on the funding environment that  
6 we're in, in the absence of any private  
7 participation or involvement meaning the property  
8 owners or developers south of Route 38, I think  
9 it probably is unlikely that there's sufficient  
10 funding to purchase right-of-way and physically  
11 realign Old Kirk Road east of its present  
12 location on Route 38.

13 Q. Would they have the developers pay impact  
14 fees to provide for that?

15 A. If the development process has reached a  
16 point with respect to the timing of this  
17 intersection improvement design, it's possible  
18 that that such arrangements could be made.

19 Q. You mentioned earlier that there were  
20 volume warrants under the MUTDC.

21 MUTDC stands for what?

22 A. Nationally that's the Manual Uniform

262

1 Q. As a planner, a highway planner, would it  
2 be prudent for the governmental authorities that  
3 have the jurisdiction of that property to design  
4 parameters as to what should be done so that  
5 property could be brought to its highest and best  
6 use from a traffic highway standpoint?

7 A. It's prudent on everyone's part. It's  
8 prudent on IDOT's part. It's prudent on Kane  
9 County's part. And it's prudent on the City of  
10 Geneva's part as well as the private entities,  
11 the private property owners involved with these  
12 parcels --

13 Q. Based on your experience --

14 A. -- to coordinate their planning.

15 Q. Based on your experience then, would it  
16 then be prudent that as part of that plan that  
17 any intersection of Old Kirk Road and Route 38  
18 would be removed to put it to a better place?

19 A. That's certainly something that should be  
20 reviewed as part of the phase one analysis.

21 Q. In your opinion as an expert on this  
22 material, would that be what you would expect to

261

1 Traffic Control Devices. Illinois basically  
2 adopts that national manual and calls it the  
3 Illinois Manual of Uniform Traffic Control  
4 Devices.

5 They have several minor differences but  
6 it's more or less the same thing.

7 Q. Okay. Under the MUTCD, are there  
8 provisions that will permit or even recommend  
9 that a highway traffic signal be installed where  
10 it has nothing to do with volume of traffic but  
11 it has to do with sightlines and safety?

12 A. There is a specific warrant based on  
13 safety -- and, excuse me, safety, but in  
14 particular a history of accidents that are --  
15 that can be remedied or mitigated by the  
16 installation of that traffic signal.

17 Q. The phase one proposal that has been  
18 discussed to have a right turn only when you're  
19 coming north on Old Kirk Road on to Route 38, is  
20 that a cheaper way of dealing with an  
21 intersection than having a highway signal,  
22 flashing signal -- I mean --

263

1 A. Well, I think if I understand your  
2 question, the reason that they're looking at a  
3 right-turn-only driveway here is not -- is not  
4 necessarily to avoid the expense of a traffic  
5 signal.

6 It's because when they put in dual  
7 left-turn lanes on each of these approaches to  
8 the Route 38/New Kirk Road intersection, the dual  
9 left-turn dimensions are typically 300 feet for  
10 the left-turn storage itself and 300 feet for the  
11 taper.

12 Since this intersection from the center  
13 line to center line is only roughly 600 feet  
14 total, Old Kirk Road falls within the limits of  
15 the deceleration taper and the left-turn storage  
16 for this new widened approach to Kirk Road to New  
17 Kirk Road.

18 It is not good engineering practice to  
19 have a full access, whether signalized or not,  
20 that falls within the limits of a left-turn lane  
21 on an approach to an intersection.

22 Q. Well, this particular intersection would  
264

1 directly.

2 There are phase one studies which do not  
3 get funded.

4 Q. Do you know what percentage don't get  
5 funded?

6 A. I would -- I could take a guess and I  
7 would say --

8 Q. Based on your experience.

9 A. Based on my experience, in a normal  
10 funding environment, maybe 10 percent.

11 In a tight funding environment, maybe  
12 that figure could increase to 30 or 40 percent  
13 depending on the source of funds.

14 Q. Do you know what the hierarchy of this  
15 particular crossing is on IDOT's hierarchy of  
16 projects that will get done?

17 A. I have been told by Kane County that at  
18 the present time it is funded.

19 I don't know if it's fully funded, I  
20 don't know if the funding is in jeopardy because  
21 of the state's budget shortfalls and woes at this  
22 point in time.  
266

1 not be a full intersection, correct?

2 There's no road to the north, is there?

3 A. By full, we mean even a T-intersection  
4 could be full in the sense that it has all  
5 movements permitted.

6 Q. Well, in your capacity as a superintendent  
7 of highways for DuPage County's Division of  
8 Transportation, would it be a recommendation of a  
9 county road authority to have the residential  
10 area around Old Kirk Road used for through  
11 traffic?

12 A. Would you intentionally route through  
13 traffic through a residential area?

14 Q. Yes, sir.

15 A. That's something that you would like to  
16 avoid on a day-in and day-out basis.

17 Q. There's an indication that there was a  
18 phase one design for this particular intersection  
19 in this area.

20 Are there many phase one designs that  
21 don't get constructed?

22 A. I don't know if I can answer that question  
265

1 Q. Okay. When you perform the adverse impact  
2 studies, you indicated you did it relative to  
3 miles and you did not do it specifically with  
4 regard to time, correct?

5 A. That's correct.

6 The reason is because the ICC criteria  
7 is based on distance and not time.

8 Q. But the whole concept is not only would  
9 you travel further, it would take you longer to  
10 get from Point A to Point B, correct?

11 A. That's correct.

12 Q. And there's also potential, is there not,  
13 that if this intersection has a train in it, that  
14 that may delay you?

15 A. That's a possibility, but I did review the  
16 Union Pacific's volume and gate downtime survey  
17 from 1999 and the crossing is actually closed  
18 only roughly 11 percent of the time.

19 So anybody leaving from a business on  
20 Old Reed Road who is right there near the  
21 crossing and can see activity at the crossing and  
22 specifically can see if the gate is down or  
267

1 coming down can make that decision, but 90  
2 percent odds of there not being a closure are  
3 pretty good odds.

4 Q. So if it's 10 or 11 percent of the time  
5 down, it means it would be closed a couple hours  
6 of each day?

7 A. Correct. Roughly speaking.

8 Q. And would you expect that there would be a  
9 higher volume of trains during the rush hours?

10 A. I would expect there be a higher volume of  
11 commuter trains which are typically much, much  
12 shorter than freight trains.

13 I believe at this crossing the commuter  
14 train in terms of its effect on gate downtime is  
15 probably in the order of 15 to 20 seconds or so,  
16 with the train passing through the crossing for  
17 that period of 15 to 20 seconds.

18 Q. Are you aware of what the MUTCD provides  
19 as to the minimum amount of gate time before a  
20 train enters the intersection?

21 A. Correct. I'm speaking of --

22 Q. Is that 20 seconds?

268

1 applicable in this case.

2 Q. You indicated that there was some  
3 discussion that if Route 38 was being  
4 rehabilitated that Old Kirk Road might be  
5 utilized to help siphon off some of the extra  
6 traffic in the area?

7 A. Well, I think we have direct input from  
8 Kane County that I -- that that is, in fact, what  
9 happened.

10 In their letter they indicated that in  
11 recent construction activity on or near this  
12 intersection that they did use Old Kirk Road as a  
13 temporary means of getting around the Kirk -- New  
14 Kirk/Route 38 intersection.

15 Q. When they do the bulk of the work that  
16 would be during what I would call the  
17 construction season when the weather is more  
18 favorable as opposed to the winter?

19 A. Well, the construction season in Illinois  
20 basically runs from early April through the end  
21 of November.

22 Q. Is that pretty much the same season for

270

1 A. Well, both freight and commuter trains  
2 must have minimum warning times.

3 I was speaking of the amount of time  
4 that a commuter train would physically go through  
5 the crossing itself, require the gate to be down,  
6 so that's on top of whatever the minimum warning  
7 time is, which is 20 seconds.

8 Q. Okay. So the adverse impact study that  
9 you did, did you do any for the residents in the  
10 area?

11 When I say the residents the ones who  
12 actually live there.

13 A. As I indicated, it was a much more  
14 cursory.

15 The over-the-road distance measurements  
16 were taken to deal with the business industrial  
17 issue.

18 I just kind of did a quick comparison of  
19 those routings with the crossing closed and with  
20 it opened and found that in most cases, if not  
21 all cases, that the adverse distance was less  
22 than that .75 mile standard that I feel is

269

1 baseball?

2 A. If you're asking me how this relates to  
3 the Kane County Cougars, I'd have to admit that I  
4 have never attended a game there. I'm not sure  
5 what their schedule is.

6 Q. The reason I asked for the baseball season  
7 is that it's similar months, about the same  
8 months.

9 And the point that I'm raising is that  
10 if you want to route the traffic because of work  
11 that's going to be done on Kirk Road or Route 38  
12 through Old Kirk Road, and you have no left-hand  
13 turn like you have talked about, is the  
14 possibility that you could build up traffic  
15 and -- to where you actually have the crossing  
16 fouled with automobiles?

17 Is that a possibility?

18 A. Well, to answer your question, if, in  
19 fact, once this intersection is improved or even  
20 during construction, if there were to be closures  
21 at Old Kirk Road, any attempt by the county, for  
22 example, to use Old Kirk as an alternative

271

1 traffic route during construction would have to  
2 be done in such a way that it's clearly  
3 understood that only eastbound traffic would be  
4 able to use Old Kirk Road.

5 That's -- the county's precise means and  
6 process for using Old Kirk as they have indicated  
7 in the past for special event activities or as a  
8 temporary construction bypass I really can't  
9 speak to, but they have stated that they have  
10 used it for that purpose.

11 Q. Is there -- in your review of the  
12 intersections in the roads, is Old Kirk Road  
13 designed to handle truck traffic?

14 A. It has sufficient width to handle the kind  
15 of truck traffic that would be generated by this  
16 existing business industrial area.

17 Q. Including semitruck trailers?

18 A. Yes. I have observed tractor-trailer  
19 combinations using Old Kirk Road to the south of  
20 the crossing.

21 Q. If Old Kirk Road crossing was closed,  
22 would there still be a dual access to the

272

1 intersect Glengarry Drive which is which has  
2 access to Route 38.

3 Q. Is that in the intersection of what you  
4 call Glengarry Drive --

5 A. Yes.

6 Q. -- and Route 38? Is that a signalized  
7 intersection?

8 A. It is, yes.

9 Q. Okay.

10 A. That is a concept which has not evolved  
11 beyond the -- evolved beyond the point of simply  
12 being an idea that is possible but maybe not  
13 practical or reasonable or feasible.

14 Q. Now, where Reed Road ends to the west, do  
15 you know approximately what the distance is from  
16 the end of Reed Road to where it would hook up  
17 with the Glengarry Drive?

18 A. It would be roughly 800 to a thousand  
19 feet.

20 Q. Okay.

21 A. And it would have to cross private  
22 property and existing railroad spur.

274

1 residential area south of the railroad tracks?

2 A. Yes.

3 Q. Okay. And, now, you're a traffic expert,  
4 we know that, for planning.

5 Is there any other alternative that you  
6 can see that would permit us to close this  
7 crossing and still serve the industries that are  
8 to the north of the railroad tracks?

9 A. There's a -- there's potential for  
10 creating additional points of access to that  
11 business industrial area.

12 The crossing should remain open until  
13 that time, but yes, there are possibilities which  
14 have, in fact, been discussed in the past and  
15 recently particularly in conjunction with  
16 improvements that might be made at this  
17 intersection.

18 Q. Would there be any that would be to the  
19 west of Kirk Road?

20 A. I'm aware of one concept for attempting to  
21 extend old Reed Road which presently travels  
22 underneath New Kirk Road west ultimately to

273

1 There would also have to be an existing  
2 building demolished to extend Reed Road.

3 Q. You mentioned existing railroad spur.

4 Do you know if that railroad spur is a  
5 private track, private industrial track?

6 A. It's -- it serves an industrial use. I  
7 would presume it is -- a public or private  
8 status, I'm not aware of.

9 MR. SHUMATE: Okay thank you very much.

10 JUDGE TATE: Mr. Berry.

11 MR. BERRY: Yes.

12 CROSS-EXAMINATION

13 BY

14 MR. BERRY:

15 Q. When -- from your personal observations,  
16 did I hear correctly you didn't take any actual  
17 traffic counts?

18 A. I performed some sample counts for short  
19 duration. Generally a half hour to 45 minutes at  
20 a time.

21 They were done primarily to reinforce my  
22 visual observations later on so that I could

275

1 recall what was going on.

2 I did not do any extensive 12-hour or  
3 24-hour per day counts.

4 Q. Okay. Referring to the large black and  
5 white map, I don't know what exhibit number it  
6 is.

7 JUDGE TATE: 1.

8 MS. DICKSON: It's Exhibit 1.

9 BY MR. BERRY:

10 Q. On Exhibit 1, to the west of Old Kirk  
11 Road, is that all farmland?

12 A. No.

13 Q. What kind of land is it?

14 A. It's a mix of vacant and some commercial  
15 development on -- immediately to the west of Old  
16 Kirk on the south side of Route 38.

17 On the north side there's some scattered  
18 residential. Then further north in Geneva  
19 there's extensive industrial development in the  
20 Geneva Industrial Park.

21 Q. In the vicinity of Kautz Road and  
22 Route 38?

276

1 west, according to this map, there's very  
2 little --

3 MR. SHUMATE: You mean east.

4 MR. BERRY: East, yes, east.

5 THE WITNESS: That's correct.

6 I mean east of -- essentially east of  
7 the Kautz/Route 38/UP intersection area, that's  
8 all going to be developed in the future, but to a  
9 great extent, you know, that's a little longer  
10 term in nature.

11 The development that I referred to  
12 earlier which is west of Kautz Road, south of  
13 Route 38, and east of Old Kirk is something which  
14 is likely to happen within the next several years  
15 based on the city's desire to see that area  
16 developed, based on their extension of sewer and  
17 water service to that area, and based on  
18 conversations that have already existed between  
19 the city, the various city departments and the  
20 property owners who have organized to investigate  
21 development possibilities.

22 Q. But you stated before for other

278

1 A. Well, extending all the way west from New  
2 Kirk Road to Kautz Road, yes.

3 Q. And even further to the west?

4 A. Further to the west on Route 38 is a  
5 mixture of -- I'm sorry, I -- pardon me, I had my  
6 directions mixed up.

7 As we go west, we're really in the City  
8 of Geneva proper in terms of, you know, the old  
9 district. There's a mixture of commercial,  
10 industrial, residential, you name it.

11 Q. Maybe -- no, okay, I see.

12 So there is a lot of unused land in and  
13 around Old Kirk Road, undeveloped land?

14 A. There's undeveloped land but I wouldn't  
15 use that description.

16 I don't think there's a lot of  
17 undeveloped land in the sphere that I see Old  
18 Kirk Road existing within.

19 Q. Well, you can see the development around  
20 Old Kirk Road itself where you can see where the  
21 UP Railroad comes through where there's a term UP  
22 and Old Kirk Road, that area, but from that point

277

1 improvements that depends upon the economy, does  
2 it not?

3 A. Well, I have this conversation all the  
4 time, and when people ask me how my business is  
5 going at this time of our state of the nation and  
6 I have to admit in the Chicago area that  
7 development activity has barely slowed a notch  
8 despite the economy.

9 Developers are still preparing plans,  
10 they're still purchasing land, they're still  
11 proceeding with infrastructure improvements,  
12 they're still proceeding with private building  
13 and capital improvements, and that's just the  
14 nature of the Chicago area.

15 Particularly in the location like this  
16 which is adjacent to and within the sphere of  
17 influence of the City of Geneva.

18 Q. But that's still conjecture? We don't  
19 know that's going to happen in the next two  
20 years?

21 A. Well, if I could maybe extrapolate where I  
22 think you're heading with your question, in my

279